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

FORM 10-Q

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

For the quarterly period ended Octobe r 3, 2010

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)< /div>

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

3939 North First Street, San Jose, California 95134
(Address of Principal Executive Offices and Zip Code)

(408) 240-5500
(Registrant's Telephone Number, Including Area Code)

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

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

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

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

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

The total number of outstanding shares of the registrant's class A common stock as of November 5, 2010 was 55,863,951.
The total number of outstanding shares of the registrant's class B common stock as of November 5, 2010 was 42,033,287.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

SunPower Corporation

Condensed Consolidated Balance Sheets
(In thousa nds, except share data)
(unaudited)

(1) As adjusted to reflect the adoption of new accounting guidance for share lending arrangements that were executed in connection with the Company's convertible debt offerings in fiscal 2007 (see Note 1).

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

SunPower Corporation

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

	October 3, 2010		January 3, 2010 (1)
Assets			
Current assets:			
Cash and cash equivalents	$ 281,212		$ 615,879
Restricted cash and cash equivalents, current portion	37,209		61,868
Short-term investments	172		172
Accounts receivable, net	265,832		248,833
Costs and estimated earnings in excess of billings	114,093		26,062
Inventories	285,805		202,301
Advances to suppliers, current portion	26,422		22,785
Project assets - plants and land, current portion	162,935		6,010
Prepaid expenses and other current assets	236,647		98,521
Total current assets	1,410,327	< div style="text-align:left;font-size:10pt;">	1,282,431
Restricted cash and cash equivalents, net of current portion	119,323		248,790
Property, plant and equipment, net	589,690		682,344
Project assets - plants and land, net of current portion	19,328		9,607
Goodwill	344,861		198,163
Other intangible assets, net	77,222		24,974
Advances t o suppliers, net of current portion	157,934		167,843
Other long-term assets	190,058		82,743
Total assets	$ 2,908,743		$ 2,696,895
Liabilities and Stockholders' Equity			
Current liabilities:			
Acco unts payable	$ 373,166		$ 234,692
Accrued liabilities	238,905		114,008
Billings in excess of costs and estimated earnings	16,451		17,346
Short-term debt and current portion of long-term debt	—		11,250
Convertible debt, current portion	—		137,968
Customer advances, current portion	17,213		19,832
Total current liabilities	645,735		535,096
Long-term debt	—		237,703
Convertible debt, net of current portion	585,343		398,606
Customer advances, net of current portion	66,070		72,288
Long-term deferred taxes	11,927		6,777;
Other long-term liabilities	171,170		70,045
Total liabilities	1,480,245		1,320,515
Commitments and contingen cies (Note 8)			
Stockholders' equity:			
Preferred stock, $0.001 par value, 10,042,490 shares authorized; none issued and outstanding	—		—
Common stock, $0.001 par value, 150,000,000 shares of class B common stock authorized; 42,033,287 sh ares of class B common stock issued and outstanding; $0.001 par value, 217,500,000 shares of class A common stock authorized; 56,324,062 and 55,394,612 shares of class A common stock issued; 55,815,427 and 55,039,193 shares of class A common stock outstanding, at October 3, 2010 and January 3, 2010, respectively	98		97
Additional paid-in capital	1,561,312		1,520,933
Accumulated deficit	(87,836)		(114,309)
Accumulated other comprehensive loss	(29,553)		(17,357)
Treasury stock, at cost; 508,635 and 355,419 shares of class A stock at October 3, 2010 and January 3, 2010, respectively	(15,523)		(12,984)

Total stockholders' equity	1,428,498	1,376,380
Total liabilities and stockholders' equity	$ 2,908,743	$ 2,696,895

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	Three Months Ended		Nine Months Ended	
	October 3, 2010	September 27, 2009 (1)	October 3, 2010	September 27, 2009
Revenue:				
Utility and power plants	$ 257,803	$ 195,117	$ 521,896	$ 428,668
Residential and commercial	292,842	270,244	760,261	547,677
Total revenue	550,645	465,361	1,282,157	976,345
Cost of revenue:				
Utility and power plants	212,526	142,999	421,178	353,611
Residential and commercial	225,534	222,532	588,800	449,991
Total cost of revenue	438,060	365,531	1,009,978	803,602
Gross margin	112,585	99,830	272,179	172,743
Operating expenses:				
Research and development	13,382	8,250	34,995	23,067
Sales, general and administrative	91,015	45,332	233,671	130,511
Total operating costs	104,397	53,582 < /div>	268,666	153,578
Operating income	8,188	46,248	3,513	19,165
Other income (expense):				
Interest income	742	—	1,294	1,949
Interest expense	(14,768)	(9,992)	(45,018)	(26,026)
Gain on deconsolidation of consolidated subsidiary	36,849	—	36,849	—
Gain on change in equity interest in unconsolidated investee	—	—	28,348	—
Gain (loss) on mark-to-market derivatives	(2,967)	—	28,885	21,193
Other, net	(11,947)	585	(28,344)	(3,765)
Other income (expense), net	7,909	(9,407)	22,014	(6,649)
Income from continuing operations before income taxes and equity in earnings of unconsolidated investees	16,097	36,841	25,527	12,516
Benefit from (provision for) income taxes	(3,376)	(19,962)	(19,493)	4,457
Equity in earnings of unconsolidated investees	5,825	2,627	10,973	7,005
Income from continuing operations	18,546	19,506	17,007	23,978
Income from discontinued operations, net of taxes	1,570	—	9,466	—
Net income	$ 20,116	$ 19,506	$ 26,473	$ 23,978
Net income per share of class A and class B common stock:				
Net income per share - basic:				
Continuing operations	$ 0.19	$ 0.21	$ 0.18	$ 0.27
Discontinued operations	0.02	—< /div>	0.10	—
Net income per share - basic	$ 0.21	$ 0.21	$ 0.28	$ 0.27
Net income per share - diluted:				
Continuing operations	$ 0.19	$ 0.20	$ 0.18	$ 0.26< /div>
Discontinued operations	0.02	—	0.09	—
Net income per share - diluted	$ 0.21	$ 0.20	$ 0.27	$
Weighted-average shares:				
Basic	95,840	94,668	95,519	89,764
Diluted (2)	105,648	105,031	96,741	91,513

(1) The Condensed Consolidated Statements of Operations for the three and nine months ended Sept ember 27, 2009 has been adjusted to reflect the adoption of new accounting guidance for share lending arrangements that were executed in connection with the Company's convertible debt offerings in fiscal 2007 (see Note 1).

(2) See Note 14 for the calculation of diluted net income per share under the if-converted method.

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

SunPower Corporation

Condensed Consolidated Statements of Cash Flows

(In thousands)
(unaudited)

	Nine Months Ended	
	October 3, 2010	September 27, 2009 (1)
Cash flows from operating activities:		
Net income	$ 26,473	$ 23,978
Less: Income from discontinued operations, net of taxes	9,466	—
Income from continuing operations	17,007 ;	23,978
Adjustments to reconcile income from continuing operations to net cash provided by (used in) operating activities of continuing operations:		
Stock-based compensation	38,064	34,204
Depreciation	75,680	60,348
Amortization of other intangible assets	28,039	12,296
Impairment (gain on sale) of investments	(1,572)	1,997
Gain on mark-to-market derivatives	(28,885)	(21,193)
Non-cash interest expense	22,175	16,709
Amortization of debt issuance costs	2,621	2,454
Amortization of promissory notes	8,941	—
Gain on deconsolidation of consolidated subsidiary	(36,849)	—
Gain on change in equity interest in unconsolidated investee	(28,348)	—
Equity in earnings of unconsolidated investees	(10,973)	(7,005)
Excess tax benefits from stock-based award activity	(761)	(7,127)
Deferred income taxes and other tax liabilities	18,708	(14,760)
Changes in operating assets and liabilities, net of effect of acquisition and deconsolidation:		
Accounts receivable	(3,879)	(43,285)
Costs and estimated earnings in excess of billings	(80,719)	(41,992)
Inventories	(84,210)	27,776
Project assets	(146,268)	—
Prepaid expenses and other assets	(76,774)	(6,615)
Advances to suppliers	1,672	25,174
Accounts payable and other accrued liabilities	219,133	(13,142)
Billings in excess of costs and estimated earnings	1,269	1,049
Customer advances	(7,961)	(13,639)
Net cash provided by (used in) operating activities of continuing operations	(73,890)	37,227
Net cash used in operating activities of discontinued operations	(3,969)	—
Net cash provided by (used in) operating activities	(77,859)	37,227
Cash flows from investing activities:		
Decrease (increase) in restricted cash and cash equivalents	64,674	(145,583)
Purchase of property, plant and equipment	(104,623)	< div style="text-align:left;font-(149,624size:10pt;">)
Proceeds from sale of equipment to third-party	5,284	9,878
Proceeds from sales or maturities of available-for-sale securities	1,572	29,545
Cash paid for acquisition, net of cash acquired	(272,699)	—
Cash decrease due to deconsolidation of consolidated subsidiary	(12,879)	—
Cash paid for investments in joint ventures and other non-public companies	(3,798)	(1,500)
Net cash used in investing activities of continuing operations	(322,469)	(257,284)
Net cash provided by investing activities of discontinued operations	33,950	—
Net cash used in investing activities	(288,519)	(257,284)
Cash flows from financing activities:		
Proceeds from issuance of long-term debt, net of issuance costs	—	137,735
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
Repayment of bank loans	(63,646)	—
Cash paid for repurchase of convertible debt	(14 3,804)	(75,636)
Cash paid for purchased options	—	(97,336)

Cash paid for bond hedge	(75,200)	—
Proceeds from warrant transactions	61,450	71,001
Proceeds from exercise of stock opti ons	670	1,408
Excess tax benefits from stock-based award activity	761	7,127
Purchases of stock for tax withholding obligations on vested restricted stock	(2,539)	(3,708)
Net cash provided by financing activities from continuing operations	21,933	484,390
Net cash provided by financing activities from discontinued operations	17,059	—
Net cash provided by financing activities	38,992	484,390
Effect of exchange rate changes on cash and cash equivalents	(7,281)	5,462
Net increase (decrease) in cash and cash equivalents	(334,667)	269,795
Cash and cash equivalents at beginning of period	615,879	202,331< /font>
Cash and cash equivalents at end of period	281,212	472,126
Less: Cash and cash equivalents of discontinued operations	—	—
Cash and cash equivalents of continuing operations, end of period	$ 281,212	$ 472,126
Non-cash transactions:		
Property , plant and equipment acquisitions funded by liabilities	$ 4,382	$ 21,594
Non-cash interest expense capitalized and added to the cost of qualified assets	2,951	4,456
Issuance of common stock for purchase acquisition< /div>	—	1,471

(1) The Condensed Consolidated Statements of Cash Flows for the nine months ended September 27, 2009 has been adjusted to reflect the adoption of new accounting guidance for share lending arrangements that were executed in connection with the Company's convertible debt offerings in fiscal 2007 (see Note 1).

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

Notes to Condensed Consolidated Financial Statements
(unaudited)

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.

In the second quarter of fiscal 2010, the Company changed its segment reporting from its Components Segment and Systems Segment to its Utility and Power Plants (“UPP”) Segment and Residential and Commercial (“R&C”) Segment. Historically, Components Segment sales were generally solar cells and solar panels sold to a third-party dealer or original equipment manufacturer (“OEM”) who would re-sell the product to the eventual customer, while Systems Segment sales were generally complete turn-key offerings sold directly to the end customer. Under the new segmentation, 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 makes components sales, whic h includes large volume sales of solar panels and mounting systems to third parties, often on a multi-year, firm commitment basis, and is a reflection of the growing demand of its utility and other large-scale industrial solar equipment customers. 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 installing rooftop and ground-mounted solar systems for the commercial and public sectors. 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 segments.

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 2010 consists of 52 weeks while fiscal year 2009 consists of 53 weeks. The third quarter of fiscal 2010 ended on October 3, 2010 and the third quarter of fiscal 2009 ended on September 27, 2009.

Basis of Presentation

The accompanying condensed consolidated interim financial statements have been prepared under the rules and regulations of the Securities and Exchange Commission (“SEC”) regarding interim financial reporting and include the accounts of the Company and all of its subsidiaries. Intercompany transactions and balances have been eliminated in consolidation. The year-end Condensed Consolidated Balance Sheet data was derived from audited financial statements as adjusted for the retrospective application of the new share lending guidance discusse d below.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("United States" or "U.S.") 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 write-downs, estimates for future cash flows and economic useful lives of property, plant and equipment, goodwill, other intangible assets and other long-term assets, asset impairments, investments in joint ventures, certain accrued liabilities including ac crued warranty 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.

During the three and nine months ended October 3, 2010, the Company identified certain immaterial out-of-period adjustments that had the net effect of decreasing income from continuing operations before income taxes by $2.9 million and $1.9 million, respectively. The adjustments for the three months ended October 3, 2010 primarily represented adjustments which originated in the first and second quarters of fiscal 2010 and related to accounts payable and deferred compensation. The adjustments fo r the nine months ended October 3, 2010 related to prior years and consisted of adjustments to accounts payable, accrued liabilities, inventories, fixed assets and prepaid expenses. The effect of these adjustments, which resulted principally from the Company's continued efforts to remediate internal controls in its Philippines operations, is not material to current and prior period inc ome from continuing operations and net income.

In the opinion of management, the accompanying condensed consolidated interim financial statements contain all adjustments, consisting only of normal recurring adjustments, which the Company believes are necessary for a fair statement of the Company's financial position as of October 3, 2010 and its results of operations for the three and nine months ended October 3, 2010 and September 27, 2009, and cash flows for the nine months ended October 3, 2010 and September 27, 2009. These condensed consolidated interim financial statements are not necessarily indicative of the results to be expected for the entire year.

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

Restatement of Previously Issued Condensed Consolidated Financial Statements

On November 1 6, 2009, the Company announced that its Audit Committee commenced an independent investigation into certain accounting and financial reporting matters at its Philippines operations (“SPML”). The Audit Committee retained independent counsel, forensic accountants and other experts to assist it in conducting the investigation.

As a result of the investigation, the Audit Committee concluded that certain unsubstantiated accounting entries were made at the direction of the Philippines-based finance personnel in order to report results for manufacturing operations that would be consistent with internal expense projections. The entries generally resulted in an understatement of the Company's cost of goods sold (referred to as “Cost of revenue&rdq uo; in its Condensed Consolidated Statements of Operations). The Audit Committee concluded that the efforts were not directed at achieving the Company's overall financial results or financial analysts' projections of the Company's financial results. The Audit Committee also determined that these accounting issues were confined to the accounting function in the Philippines. Finally, the Audit Committee concluded that executive management neither directed nor encouraged, nor was aware of, these activities and was not provided with accurate information concerning the unsubstantiated entries. In addition to the unsubstantiated entries, during the Audit Committee investigation various accounting errors were discovered by the investigation and by management.

The nature and effe ct of the restatements resulting from the Audit Committee's independent investigation, including the impact to the previously issued interim condensed consolidated financial statements, were provided in the Company's Annual Report on Form 10-K for the year ended January 3, 2010. Prior year reports on Form 10-Q were restated and filed on May 3, 2010 by submission of Forms 10-Q/A. The amounts presented in this Form 10-Q reflect the restatements filed in these amendments. For additional information regarding the Company's disclosure controls and procedures see *Part I - “Item 4: Controls and Procedures*” in the Company's Quarterly Report on Form 10-Q for the quarter ended October 3, 2010.

Summary of Significant Accounting Policies

These condensed consolidated financial statements and accompanying notes should be read in conjunction with the Company's annual consolidated financial statements and notes thereto for the year ended January 3, 2010 included in its Annual Report on Form 10-K filed with the SEC.

Revenue Recognition of Power Plants

In connection with the Company's acquisition of SunRay Malta Holdings Limited (“SunRay”), the Company began to develop and sell solar power plants which generally include sale or lease of related real estate (see Note 2). Revenue recognition for these solar power plants require adherence to specific guidance for real estate sales, which provides that if the Company held control over land or land rights prior to the execution of an EPC contract, the Company would 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 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 result in the Company deferring revenue during construction, even if a sale was consummated, until the buyer's initial investment payment is received by the Company, at which time revenue would be recognized on a percentage-of - -completion basis as work is completed. Revenue recognition methods for the Company's solar power plants not involving real estate remain subject to the Company's historical practice using the percentage-of-completion method.

Recently Adopted Accounting Guidance
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Share Lending Arrangements

In June 2009, the Financial Accounting Standards Board ("FASB") issued accounting guidance that changed how companies account for share lending arrangements that were executed in connection with convertible debt offerings or other financings. The new accounting guidance requires all such share lending arrangements to be valued and amortized as interest expense in the same manner as debt issuance costs. As a result of the new accounting guidance, existing share lending arrangements relating to the Company's class A common stock are required to be measured at fair value and amortized as interest expense in its Condensed Consolidated Financial Statements. 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 Condensed Consolidated Statement of Operations equal to the then fair value of the unreturned loaned shares, net of any probable recoveries. The Company adopted the new accounting guidance effective January 4, 2010, the start of its fiscal year, and applied it retrospectively to all prior periods as required by the guidance.

The Company has two historical share lending arrange ments subject to the new guidance. In connection with the issuance of its 1.25% senior convertible debentures ("1.25% debentures") and 0.75% senior convertible debentures ("0.75% debentures"), the Company loaned 2.9 million shares of its class A common stock to Lehman Brothers International (Europe) Limited ("LBIE") and 1.8 million shares of its class A common stock to Credit Suisse International ("CSI") under share lending arrangements. Application of the new accounting guidance resulted in higher non-cash amortization of imputed share lending costs in the current and prior periods, as well as a significant non-cash loss resulting from Lehman Brothers Holding Inc. ("Lehman") filing of 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 class A common stock loaned and unreturned by LBIE is $213.4 million, which was expensed retrospectively in the third quarter of fiscal 2008. In addition, on a cumulative basis from the respective issuance dates of the share lending arrangements through January 3, 2010, the Company has recognized $1.6 million in additional non-cash interest expense (see Note 10).

As a result of the Company's adoption of the new accounting guidance for share lending arrangements, the Company's Condensed Consolidated Balance Sheet as of January 3, 2010 has been adjusted as follows:

(In thousands)	As Adjusted in this Quarterly Report on Form 10-Q	As Previously Reported in the 2009 Annual Report on Form 10-K (1)
Assets		
Prepaid expenses and other current assets	$ 98,521	$ 104,442
Other long-term assets	82,743	91,580
Total assets	2,696,895	2,696,036
Stockholders' Equity		
Additional paid-in capital	1,520,933	1,305,032
Retained earnings (accumulated deficit)	(114,309)	100,733
Total stockholders' equity	1,376,380	1,375,521

(1) The prior period balance of "Other long-term assets" has been reclassified to conform to the current period presentation in the Company's Condense d Consolidated Balance Sheets which separately discloses "Project assets - plants and land, net of current portion."

As a result of the Company's adoption of the new accounting guidance for share lending arrangements, the Company's Condensed Consolidated Statement of Operations for the three and nine months ended September 27, 2009 have been adjusted as follows:

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(In thousands, except per share data)	Three Months Ended September 27, 2009		Nine Months Ended September 27, 2009	
	As Adjusted n this Quarterly Report on Form 10-Q	As Previously Reported in Quarterly Report on Form 10-Q/A	As Adjusted in this Quarterly Report on Form 10-Q	As Previously Reported in Quarterly Report on Form 10-Q/A
Interest expense	(9,992)	$(9,854)	$(26,026)	$(25,503)
Income before income taxes and equity in earnings of unconsolidated investees	36,841	36,979	12,516	13,039
Net income	19,506	19,644	23,978	24,501
Net income per share of class A and class B common stock:				
Basic	$ 0.21	$ 0.21	$ 0.27	$ 0.27
Diluted	$ 0.20	$ 0.20	$ 0.26	$ 0.27

As a result of the Company's adoption of the new accounting guidance for share lending arrangements, the Company's Condensed Consolidated Statement of Cash Flows for th e nine months ended September 27, 2009 has been adjusted as follows:

(In thousands)	Nine Months Ended September 27, 2009	
	As Adjusted in this Quarterly Report on Form 10-Q	As Previously Reported in Quarterly Report on Form 10-Q/A
Cash flows from operating activities:		
Net income	$ 23,978	$ 24,501
Non-cash interest expense	16,709	16,186
Net cash provided by operating activities	37,227	37,227

Variable Interest Entities ("VIEs")

In June 2009, the FASB issued new accounting guidance regarding consolidation of VIEs to eliminate the exemption for qualifying special purpose entities, provide a new approach for determining which entity should consolidate a VIE, and require an enterprise to regularly perform an analysis to determine whether the enterprise's variable interest or interests give it a controlling financial interest in a VIE . The new accounting guidance became effective for fiscal years beginning after November 15, 2009. The Company's adoption of the new accounting guidance in the first quarter of fiscal 2010 had no impact on its Condensed Consolidated Financial Statements (see Note 9).

Revenue Arrangements with Multiple Deliverables

In October 2009, the FASB issued new accounting guidance for revenue arrangements with multiple deliverables. Specifically, the new guidance requires an entity to allocate arrangement consideration at the inception of an arrangement to all of its deliverables based on their relative selling prices. In addition, the new guidance eliminates the use of the residual method of allocation and requires the relative-selling-price method in all circumstances in which an entity recognizes revenue for an arrangement with multiple deliverables. The new accounting guidance is effective in the fiscal year beginning on or after June 15, 2010. Early adoption is permitted. The Company adopted the new accounting guidance in the first quarter of fiscal 2010 and applied the prospective application for new or materially modified arrangements with multiple deliverables. The Company's adoption of the new accounting guidance did not have a material impact on its Condensed Consolidated Financial Statements.

Fair Value of Assets and Liabilities

In January 2010, the FASB issued updated guidance related to fair value measurements and disclosures, which will require the Company to disclose separately the amounts of significant transfers in and out of Level 1 and Level 2 fair value measurements and to describe the reasons for the transfers. In addition, in the reconciliation for fair value measurements using significant unobservable inputs, or Level 3, the Company will disclose separately information about purchases, sales, issuances and settlements on a gross basis rather than on a net basis. The updated guidance also requires that the Company provide fair value measurement disclosures for each class of assets and liabilities and disclosures about the valuation techniques and inputs used to measure fair value for both recurring and non-recurring fair value measurements for Level 2 and Level 3 fair value measurements. The updated guidance is effective for interim or annual financial reporting periods beginning after December 15, 2009, except for the disclosures about purchas es, sales, issuances and settlements in the roll forward activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010 and for interim periods within those fiscal years. The Company's adoption of the updated guidance had no impact on its financial position, results of operations, or cash flows and only required additional financial statements disclosures as set forth in Notes 7, 10 and 12.

Issued Accounting Guidance Not Yet Adopted

There has been no i ssued accounting guidance not yet adopted by the Company that it believes is material, or is potentially material to the Company's Condensed Consolidated Financial Statements.

Note 2. *BUSINESS COMBINATIONS*

SunRay

On March 26, 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 wholly-owned subsidiary of the Company and the results of operations of SunRay have been included in the Condensed 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 Italy, France, Israel, Spain, the United Kingdom and Greece. The pipeline consists of projects in various stages of development. SunRay's power plant development and project finance team consisted of approximately 70 employees.

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 SunPower North America, LLC, a wholly-owned subsidiary of the Company, 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 p aid 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 have been structured to provide a retention incentive. Since the vesting and payment of the promissory notes are contingent on future employment, the promissory notes are considered deferred compensation and therefore are 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.
&n bsp;

Preliminary Purchase Price Allocation

The Company accounted for this acquisition using the acqui sition method. The Company preliminarily 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 was adjusted in this report as follows:

< div style="text-align:left;font-size:10pt;">**(In thousands)**	**As Adjusted**	**As Previously Reported**
Net tangible assets acquired	$54,915	$ 44,686
Project assets	79,160	79,160
Purchased technology	1,120	1,120
Goodwill	146,895	157,124
Total purchase consideration	$ 282,090	$ 282,090

The fair value of net tangible assets acqui red on March 26, 2010 was adjusted in this report as follows:

(In thousands)	< font style="font-family:inherit;font-size:10pt;">	**As Adjusted**	**As Previously Reported**
Cash and cash equivalents		$ 9,391	$ 9,391
Restricted cash and cash equivalents		36,701	< font style="font-family:inherit;font-size:10pt;">36,701
Accounts receivable, net		1,958	1,958
Prepaid expenses and other assets		5,765	7,933
Project assets - plants and land		19,624	19,624
Property, plant and equipment, net		452	452
Assets of discontinued operations		199,071	186,674
T otal assets acquired		272,962	262,733
Accounts payable		(4,324)	(4,324)
Other accrued expenses and liabilities		(11,688)	(11,688)
Debt (see Note 10)		(42,707)	(42,707)
Liabilities of discontinued operations		(159,328)	(159,328)
Total liabilities assumed		(218,047)	(218,047)
Net assets acquired		$ 54,915	$ 44,686

Since the Company's purchase price allocation was not fully complete as of the second quarter ended July 4, 2010, the Company recorded adjustments to the fair value of certain assets and liabilities as additional information became available in the third quarter ended October 3, 2010. These fair value adjustments were retrospectively applied to the acquisition date of March 26, 2010 as required by current accounting guidance. The Company is still in the process of reviewing the fair value of certain assets and liabilities acquired.

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-Pe riod 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 is 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 is amortizing 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.

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 totalin g $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 is amortizing the purchased technology to “Cost of revenue” within the UPP Segment on a straight-line basis over estimated lives of 5 years.

Goodwill

Of the total estimated purchase price paid at the time of acquisition, $133.2 million had been initially allocated to goodwill within the UPP Segment during the first quarter ended April 4, 2010. During the second and third quarters in fiscal 2010, the Company recorded adjustments aggregating $13.7 million to increase goodwill related to the acquisition of SunRay on March 26, 2010 to $146.9 million. These adjustments were based upon the Company obtaining additional information on the acquired assets and liabilities as additional information became availa ble in the second and third quarter of fiscal 2010. The adjustments included: (i) the elimination of a non-current tax receivable and a related non-current tax liability; (ii) changes to the value of certain assets and liabilities acquired in “Assets of discontinued operations” and “Liabilities of discontinued operations,” respectively; as well as (iii) changes to the value of certain acquired prepaid expenses, other current assets, accounts payable, other accrued liabilities and debt. These fair value adjustments were retrospectively applied to the acquisition date of March 26, 2010 as required by current accounting guidance. 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 w orkforce, synergies in technologies, skill sets, operations, customer base and organizational cultures.

Acquisition Related Costs

Acquisition-related costs of zero and $6.5 million recognized in the three and nine months ended October 3, 2010, respectively, 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 Condensed Consolidated Statements of Operations.

Utility and Power Plants Revenue

In the three and nine months ended October 3, 2010, SunRay's electricity revenue from discontinued operations totaled $3.2 million and $11.1 million, respectively (see Note 3). In addition, SunRay completed the sale of an 8 megawatt ("MWac") solar power plant in Montalto di Castro, Italy, to Etrion Corporation which represented 12% of the Company's total revenue in the third quarter of fiscal 1010 (see Note 16).

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 2010 and 2009, is as follows:

	Three Months Ended		Nine Months Ended	
(In thousands, except per share amounts)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Revenue	$ 550,645	$321,199	$ 1,281,568	$ 832,183
Net income (loss)	20,116	(49,989)	11,171	(63,751)
Basic net income (loss) per share	0.21	(0.53)	0.12	(0.71)
Diluted net income (loss) per share	0.21	(0.53)	0.12	(0.71)

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 financial position or 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 3. ***SALE OF DISCONTINUED OPERATIONS***

In connection with the Company's acquisition of SunRay on March 26, 2010, it acquired a SunRay 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 an asset of the Company is classified as held-for-sale, it is required to present the related assets, liabilities and results of operations associated with that asset as discontinued operations. Cassiopea's results of operations for the three and nine months ended October 3, 2010 were classified as "Income from discontinued operations, net of taxes" in the Condensed Consolidated Statements of Operations. On August 5, 2010, the Company sold the assets and liabilities of Cassiopea.

In the three and nine months ended October 3, 2010, condensed results of operations relating to Cassiopea are as follows:

(In thousands)	Three Months Ended October 3, 2010	Nine Months Ended October 3, 2010
Utility and power plants revenue	$ 3,176	$ 11,081
Gr oss margin	3,176	11,081
Income (loss) from discontinued operations before sale of business unit	(5,648)	5,862
Gain on sale of business unit	7,937	7,937
Income before income taxes	2,289	13,799
Income from discontinued opera tions, net of taxes	1,570	9,466

Note 4. ***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	146,895	—	146,895
Translation adjustment	—	(197)	(197)
As of October 3, 2010	$ 225,529	$ 119,332	$ 344,861

The balance of goodwill within the UPP Segment increased $146.9 million as of October 3, 2010 due to the Company's acquisition of SunRay. This amount represents the excess of the purchase price over the fair value of the underlying net tangible and other intangible assets of SunRay (see Note 2). The translation adjustment for the revaluation of the Company's subsidiaries' goodwill into U.S. dollar equivalents decreased the balance of goodwill within the R&C Segment by $0.2 million during the nine months ended October 3, 2010.

In the second quarter of fiscal 2010, the Company changed its segment reporting structure to establish the UPP Segment and R&C Segment to better align its sales, construction, engineering and customer service teams based on end-customer segments rather than by sales channels. Management evaluated all the facts and circumstances relating to the change in its segment reporting structure and concluded that no impairment indicator existed as of July 4, 2010 that would require impairment testing of its new reporting units.

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. 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 recessionary environment and its impact on the Company’s business. Based on the impairment test as of October 3, 2010, the Company determined there was no impairment. As of October 3, 2010, the fair value of each reporting unit exceeded the carrying value under the first step of the goodwill impairment test, therefore, goodwill is not impaired.

Intangible Assets

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

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(In thousands)	Gross	Accumulated Amortization	Net
As of October 3, 2010			
Project assets	$ 79,160	$ (15,570)	$ 63,590
Patents and purchased technology	52,519	(50,054)	2,465
Purchased in-process research and development	1,000	—	1,000
Trade names	2,639	(2,558)	81
Customer relationships and other	28,759	(18,673)	10,086
	$ 164,077	$(86,855)	$ 77,222
As of January 3, 2010			
Patents and purchased technology	$ 51,398	$ (42,014)	$ 9,384
Purchased in-process research and development	1,000	—	1,000
Trade names	2,623	(2,212)	411
Customer relationships and other	28,616	(14,437)	14,179
	$ 83,637	$ (58,663)	$ 24,974

In connection with the acquisition of SunRay on M arch 26, 2010, the Company recorded $80.3 million of other intangible assets. All of the Company's acquired other intangible assets are subject to amortization. Aggregate amortization expense for other intangible assets totaled $11.6 million and $28.0 million in the three and nine months ended October 3, 2010, respectively, and $4.1 million and $12.3 million in the three and nine months ended September 27, 2009, respectively. As of October 3, 2010, the estimated future amortization expense relate d to other intangible assets is as follows:

(In thousands)	Amount
Year	
2010 (remaining three months)	$ 10,494
2011	27,505
2012	22,965
2013	16,153
2014	86
Thereafter	19
	$ 77,222

Note 5. ***BALANCE SHEET COMPONENTS***

(In thousands)	October 3, 2010	January 3, 2010
Accounts receivable, net:		
Accounts receivable, gross	$ 272,316	$ 253,039
Less: allowance for doubtful accounts	(4,912)	(2,298)
Less: allowance for sales returns	(1,572)	(1,908)
	$ 265,832	$ 248,833
Inventories:		
Raw materials	$ 63,795	$ 76,423
Work-in-process	41,087	20,777
Finished goods	180,923	105,101
	$ 285,805	$ 202,301
Prepaid expenses and other current assets:		
VAT receivables, current portion	$ 92,811	$ 27,054
Short-term deferred tax assets	2,273	5,920
Foreign currency derivatives	18,917	5,000
Income t ax receivable	6,887	3,171
Note receivable (1)	10,000	—
Other receivables (2)	54,853	43,531
Other prepaid expenses	50,906	13,845
	$ 236,647	$ 98,521
Other long-term assets:		
Investments in joint ventures	$ 106,836	$ 39,820
Bond hedge derivative	44,694	—
Note receivable (1)	—	10,000
Investments in non-public companies	6,418	4,560
VAT receivables, net of current portion	7,056	7,357
Long-term debt issuance costs	11,954	6,942
Other	13,100	14,064
	$ 190,058	$ 82,743

(1) In June 2008, the Company loaned $10.0 million to a third-party private company under a three-year note receivable that is convertible into equity at the Company's option.

(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 8 and 9).

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(In thousands)		October 3, 2010		January 3, 201 0
Accrued liabilities:				
VAT payables	$	64,099	$	15,219
Foreign currency derivatives		79,422		27,354
Short-term warranty reserves		11,364		9,693
Employee compensation and employee benefits		29,986		18,161
Other		54,034		43,581
	$	238,905	$	114,008
Other long-term liabilities:				
Embedded conversion option derivatives	$	45,095	$	—
Warrants derivatives		37,044		—
Long-term warranty reserves		48,069		36,782
Uncertain tax positions		16,763	< font style="font-family:inherit;font-size:10pt;">	14,478
Other		24,199		18,785
	$	171,170	$	70,045
Accumulated other comprehensive loss:				< /div>
Cumulative translation adjustment	$	(2,961)	$	(3,864)
< div style="font-size:10pt;">Net unrealized loss on derivatives, net of tax provision of $2.8 million and $2.3 million as of October 3, 2010 and January 3, 2010, respectively		(26,592)		(13,493)
	$	(29,553)	$	(17,357)

Note 6. ***PROPERTY, PLANT AND EQUIPMENT, NET***

(In thousands)			October 3, 2010		January 3, 2010
Land and buildings		$	13,913	$17,409	
Leasehold improvements			204,330		197,524
Manufacturing equipment (1)			547,340		547,968
Computer equipment			43,104		34,835
Solar power systems			10,040		8,708
Furniture and fixtures			5,123		4,540
Construction-in-process	< /font>		26,944		57,305
			850,794		868,289
Less: accumulated depreciation (2)			(261,104)		(185,945)
		$	589,690	$	682,344

(1) 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. The Company provided security for advance payments received from a third party in fiscal 2008 totaling $40.0 million in the form of collateralized manufacturing equipment with a net book value of $30.2 million and $35.8 million as of October 3, 2010 and January 3, 2010, respectively.

(2) Total depreciation expense was $26.4 million and $75.7 million in the three and nine months ended October 3, 2010, respectively, and $21.4 million and $60.3 million in the three and nine months ended September 27, 2009, respectively.

Note 7. ***INVESTMENTS***

The Company's investments in money market funds and bank notes are carried at fair value. 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.

Assets Measured at Fair Value on a Recurring Basis

The following tables present information about the Company's investments in available-for-sale debt and equity securities 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 interest rate swaps derivatives, bond hedge and warrants derivatives, purchased options derivative, embedded conversion option derivative and over-allotment option derivative measured at fair value on a recurring basis is disclosed in Note 10. Information about the Company's foreign currency derivatives measured at fair value on a recurring basis is disclosed in Note 12. The Company does not have any nonfinancial assets or liabilities that are recognized or disclosed at fair value on a recurring basis in its condensed consolidated financial statements.

	October 3, 2010			
(In thousands)	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets				
Money market funds	$ 328,983	$ —	$ 172 ;	$ 329,155

	January 3, 2010			
(In thousands)	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets				
Money market funds	$ 418,372	$ —	$ 172	$ 418,544
Bank notes	—	101,085	—	101,085
	$ 418,372	$ 101,085	$ 172	$ 519,629

There have been no transfers between Level 1, Level 2 and Level 3 measurements during the nine months ended October 3, 2010. Available-for-sale securities utilizing Level 2 inputs to determine fair value are comprised of investments in bank notes totaling zero and $101.1 million as of October 3, 2010 and January 3, 2010, respectively. Available-for-sale securities utilizing Level 3 inputs to determine fair value are comprised of investments in money market funds totaling $0.2 million as of both October 3, 2010 and January 3, 2010.

Money Market Funds

The Company's money market fund instruments are classified within Level 1 of the fair value hierarchy because they are valued using quoted prices for identical instruments in active markets. Investments in money market funds utilizing Level 3 inputs consist of the Company's investment in the Reserve International Liquidity Fund which amounted to $0.2 million as of both O ctober 3, 2010 and January 3, 2010. The Company has estimated the value of its investment in the Reserve International Liquidity Fund to be $0.2 million based on information publicly disclosed by the Reserve International Liquidity Fund relative to its holdings and remaining obligations.

Bank Notes

Investments in bank notes utilizing Level 2 inputs consist of short-term certificates of deposit and select interest bearing bank accounts. Such investments are not traded on an open market and reside with the bank. Bank notes are highly liquid with maturities of zero to ninety days. Due to the short-term maturities, the Company has determined that the fair value of these investments should be at face value. Bank notes totaled zero and $101.1 million as of October 3, 2010 and January 3, 2010, respectively.

The following table summarizes unrealized gains and losses by major security type designated as available-for-sale:

(In thousands)	October 3, 2010 Cost	Unrealized Gross Gains	Unrealized Gross Losses	Fair Value	January 3, 2010 Cost	Unrealized Gross Gains	Unrealized Gross Losses	Fair Value
Money market funds	$ 329,155	$ —	$ —	$ 329,155	$ 418,544	$ —	$ —	$ 418,544
Bank notes	—	—	—	—	101,085	—	—	101,085
	$ 329,155	$ —	$ —	$ 329,155	$ 519,629	$ —	$ —	$ 519,629

The classification of available-for-sale securities and cash deposits is as follows:

(In thousands)	October 3, 2010 Available- For- Sale	Cash Deposits	Total	January 3, 2010 Available- For- Sale	Cash Deposits ;	Total
Cash and cash equivalents	$ 175,046	$ 106,166	$ 281,212	$ 325,906	$ 289,973	$ 615,879
Short-term restricted cash and cash equivalents (1)	34,705	2,504	37,209	61,868	—	61,868
Short-term investments	172	—	172	172	—	172
Long-term restricted cash and cash equivalents (1)	119,232	91	119,323	131,683	117,107	248,790
	$ 329,155	$ 108,761	$ 437,916	$ 519,629	$ 407,080	$ 926,709

(1) Includes cash collateralized ban k standby letters of credit the Company provided to support advance payments received from customers and cash held in an escrow account for future advance payments by the Company.

The contractual maturities of available-for-sale securities are as follows:

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(In thousands)	October 3, 2010	January 3, 2010
Due in less than one year	$ 329,155	$ 519,629

Minority Investments in Joint Ventures and Other Non-Public Companies

The Company holds minority investments comprised of common and preferred stock in joint ventures and other non-public companies. The Company monitors these minority investments for impairment, which are included in “Other long-term assets” in its Condensed Consolidated Balance Sheets and records reductions in the carrying values when necessary. Circumstances that indicate an other-than-temporary decline include valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market price and declines in operations of the issuer. As of October 3, 2010 and January 3, 2010, the Company had $106.9 million and $39.8 million, respectively, in investments in joint ventures accounted for under the equity method and $6.4 million and $4.6 million, respectively, in investments accounted for under the cost method (see Note 9).

On September 28, 2010, the Company entered into a $0.2 million investment in a related party accounted for under the cost method. In connection with the investment the Company entered into licensing, lease and facility service agreements. Under the lease and facility service agreements the investee will lease space from the Company for a period of five years. Facility services will be provided by the Company over the term of the lease on a “cost-plus” basis. Payments received under the lease and facility service agreement totaled $0.1 million in both the three and nine months ended October 3, 2010. As of October 3, 2010, $0.8 million remained due and receivable from the investee related to capital purchases made by the Company on behalf of the investee. The Company will be required to provide additional financing of up to $4.9 million (see Note 8).

Note 8. ***COMMITMENTS AND CONTINGENCIES***

Operating Lease Commitments

On June 29, 2009, the Company signed a commercial project financing agreement with Wells Fargo to fund up to $100 million of commercial-scale solar system projects through May 31, 2010. Under the financing agreement, the Company designed and built the systems, and upon completion of each system, sold the systems to Wells Fargo, who in turn, leased back the systems to the Company. Separately, the Company entered into power purchase agreements with end customers, who host the system s and buy the electricity directly from the Company.

The Company sold two solar system projects to Wells Fargo in the third quarter of fiscal 2010 and two solar system projects to Wells Fargo in the fourth quarter of fiscal 2009. Concurrent with the sale, the Company entered into agreements to lease the systems back from Wells Fargo over minimum lease terms of 20 years. Each system has a separate lease and was separately evaluated under lease accounting guidance. The leases call for an initial term of 20 years, and at the end of the lease term, the Company has the option to purchase the system at fair value or remove the system. The Company classified the four systems as operating leases in accordance with accounting guidance and considers the leases as no rmal leasebacks. The deferred profit on the sale of the systems is being recognized over the minimum term of the leases as a reduction of rent expense.

In addition, the Company leases its San Jose, California facility under a non-cancelable operating lease from Cypress Semiconductor Corporation ("Cypress"), which expires in April 2011. In addition, the Company leases its Richmond, California facility under a non-cancelable operating lease from an unaffiliated third party, which expires in September 2018. The Company also has various lease arrangements, including for its European headquarters located in Geneva, Switzerland under a lease that expires in September 2012, as well as sales and support offices in Southern California, Ne w Jersey, Oregon, Australia, England, France, Germany, Greece, Israel, Italy, Malta, Spain and South Korea, all of which are leased from unaffiliated third parties. In addition, the Company acquired a lease arrangement in London, England, which is leased from a party affiliated with the Company.

Future minimum obligations under all non-cancelable operating leases as of October 3, 2010 are as follows:

(In thousands)	**Amount**	
Year		
2010 (remaining three months)	$	5,065
2011		9,949
2012		8,161
2013	;	7,183
2014	6,154	
Thereafter		27,820
	$64,332	

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-cancelable 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 and solar panels which specify future quantities and pricing of products to be supplied by the vendors for periods up to 11 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.

As of October 3, 2010, total obligations related to non-cancelable purchase orders totaled $14.7 million and long-term supply agreements with suppliers, including joint ventures, totaled $5,583.4 million. Future purchase obligations under non-cancelable purchase orders and long-term supply agreements as of October 3, 2010 are as follows:

(In thousands)		Amount
Year		
2010 (remaining three months)	$	404,669
2011		675,002
2012		624,449
2013		636,165
2014		731,216
Thereafter		2,526,662
	$	5,598,163

Total future purchase commitments of $5,598.2 million as of October 3, 2010 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 October 3, 2010 would be reduced by $1,749.2 million to $3,849.0 million 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. Total 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.< /font>

Advances to Suppliers

As noted above, the Company has entered into agreements with various polysilicon, ingot, wafer and solar panel vendors that specify future quantities and pricing of products to be supplied by the vendors for periods up to 11 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 nine months ended October 3, 2010, the Company paid advances totaling $13.8 million in accordance with the terms of existing supply agreements. As of October 3, 2010 and January 3, 2010, advances to suppliers totaled $184.4 million and $190.6 million, respectively, the current portion of which is $26.4 million and $22.8 million, respectively. Two suppliers accounted for 75% and 17% of total advances to suppliers as of October 3, 2010, and 76% and 15% as of January 3, 2010.

The Company's future prepayment obligations related to these agreements as of October 3, 2010 are as follows:

< /tr>

(In thousands)		Amount
Year		
2010 (remaining three months)	$	123,575
2011		117,402
2012		72,694
	$	313,671

On October 4, 2010 and November 10, 2010, the Company paid advances totaling $110.0 million in accordance with the terms of existing supply agreements. On November 5, 2010, the Company and AUO SunPower Sdn. Bhd. ("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 to be paid by AUOSP to the Company total $100 million, $60 million and $40 million in the fourth quarter of fiscal 2010, fiscal year 2011 and fiscal year 2012, respectively (see Note 9).

Product Warranties

The Company generally warrants or guarantees the performance of the solar panels tha t it manufactures at certain levels of power output for 25 years. In addition, the Company passes through to customers long-term warranties from the OEMs of certain system components. 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 a period of 2, 5 or 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 rel iability 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 $8.6 million and $18.3 million during the three and nine months ended October 3, 2010, respectively, and $6.8 million and $15.7 million during the three and nine months ended September 27, 2009, respectively. Activity within accrued warranty for the three and nine months ended October 3, 2010 and September 27, 2009 are summarized as follows:

	Three Months Ended		Nine Months Ended	
(In thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Balance at the beginning of the period	$ 51,991	$ 34,108	$ 46,475	$ 28,062
Accruals for warranties issued during the period	8,604	6,756	18,309	15,749
Settlements made during the period	(1,162)	(1,069)	(5,351)	(4,016)
Balance at the end of the period	$ 59,433	$ 39,795	$ 59,433	$ 39,795

System Put-Rights

EPC 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 construction 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 ar e not met. Management believes the likelihood of a customer exercising its system put-rights is remote and, to date, no such repurchases have been triggered.

Future Financing Commitments

As specified in the Company's joint venture agreement with AU Optronics Singapore Pte. Ltd. ("AUO"), the Company and its joint venture parter (the shareholders) contributed certain funding on July 5, 2010. The shareholders will each contribute additional amounts from fiscal 2011 to 2014 amounting to $335 million, or such lesser amount as the parties may mutually agree. In addition, if the shareholders or the joint venture requests additional equity financing to the joint venture, then each shareholder will be required to make additional cash contributions of up to $50 million in the aggregate.

On September 28, 2010, the Company invested $0.2 million in a related party, accounted for under the cost method. The Company will be required to provide additional financing of up to $4.9 million, subject to certain conditions.

The Company's future financing obligations related to these agreements as of October 3, 2010 are as follows:

(In thousands)	Amount
Year	
2010 (remaining three months)	$ 170
2011	65,730
2012	75,870
2013	101,400
2014	96,770
	$ 339,940

Tax Sharing Agreement

The Company has a tax sharing agreement with its former parent, Cypress Semiconductor Corporation ("C ypress"), providing for each of the party's obligations concerning various tax liabilities while it was a wholly-owned subsidiary of Cypress. To the extent that the Company becomes entitled to utilize the Company's separate tax returns portions of any tax credit or loss carryforwards, the Company 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. The Company will distribute these amounts to Cypress in cash or in the Company's shares, at Cypress's option. As of January 3, 2010, the Company had $27.6 million of California net operating loss carryforwards, $2.6 million of federal credit carryforwards and $1.4 million of California credit carryforwards, meaning that such potential future p ayments to Cypress, which would be made over a period of several years, would therefore aggregate $2.2 million. These amounts do not reflect potential adjustments for the effect of the restatement of the Company's consolidated financial statements in fiscal 2009 and 2008. In fiscal 2009, the Company paid $16.5 million in cash to Cypress, of which $15.1 million represents the federal component and $1.4 million represents the state component.

The Internal Revenue Service ("IRS") is currently conducting audits of Cypress's federal income tax returns for fiscal 2006, 2007 and 2008. As of October 3, 2010, Cypress has not notified the Company of any adjustments to the tax liabilities that have been proposed by the IRS. However, the IRS has not completed its examination and there can be no assurance that there will be 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.

Uncertain Tax Positions

Total liabilities associated with uncertain tax positions were $16.8 million and $14.5 million as of October 3, 2010 and January 3, 2010, respectively, and are included in "Other long-term liabilities" in the Company's Condensed 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

< div style="line-height:120%;text-align:left;text-indent:36px;font-size:10pt;">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

Audit Committee Investigation and Related Litigation

In November 2009, the Audit Committee of the Company's Board of Directors initiated an independent investigation regarding certain unsubstantiated accounting entries. See Note 1 for information regarding the Audit Committee's investigation. The Audit Committee announced the results of its investigation in March 2010.

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 Plichta v. SunPower Corp. et al., 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 investiga tion announcement on November 16, 2009. 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 defendant's motions to dismiss the consolidated complaint on November 4, 2010, and took the motions under submission. 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 or before December 3, 2010. 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 complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seek an unspecified amount of damages. The Company intends to oppose the derivative plaintiffs' efforts to pursue this litigation on the Company's behalf. 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 n ot determinable and negative outcomes may adversely affect the Company's financial position, liquidity or results of operations.

Note 9. 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 and Woongjin have funded the joint venture through capital investments. In addition, Woongjin Energy obtained a $33.0 million loan originally guaranteed by Woongjin. The Company supplies polysilicon, services and technical support required for silicon ingot manufacturing to the joint venture. Once manufactured, the Company purchases the silicon ingots from the joint venture under a nine-year agreement through 2016. As of October 3, 2010 and January 3, 2010, $14.6 million and $19.3 million, respectively, remained due and receivable from Woongjin Energy related to the polysilicon the Company supplied to the joint venture for silicon ingot manufacturing. Payments to Woongjin Energy for manufacturing silicon ingots totaled $44.7 million and $134.0 million during the three and nine months ended October 3, 2010, respectively, and $36.0 million and $110.8 million during the three and nine months ended September 27, 2009, respectively. As of October 3, 2010 and January 3, 2010, $24.9 million and $29.2 million, respectively, remained due and payable 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. Shares of Woongjin Energy's common stock are now traded publicly on the Korean Exchange. The Company did not participate in this common stock issuance by Woongjin Energy. The Company continues to hold 19.4 million shares of Woongjin Energy's common stock with a market value of $312.3 million on October 1, 2010. As a result of the new common *stock issuance by Woongjin Energy in its IPO, the Company's percentage equity interest in Woongjin Energy decreased from 42.1% to 31.3% of its issued and outstanding shares of common stock. In connection with the IPO, the Company recognized a non-cash gain of $28.3 million in the second quarter of fiscal 2010 as a result of its equity interest in Woongjin Energy being diluted. In connection with Woongjin En ergy's IPO, the Company entered into an agreement to, among other things, restrict its selling or transferring such shares for a period of six months following June 30, 2010. There is no obligation or expectation for the Company to provide additional funding to Woongjin Energy. On October 29, 2010, the Company entered into a revolving credit facility with Union Bank, N.A. ("Union Bank"), and all shares of Woongjin Energy held by the Company have been pledged as security under the revolving credit facility (see Notes 10 and 17).*

As of October 3, 2010 and January 3, 2010, the Company had a $72.7 million and $33.8 million, respectively, investment in the joint venture in its Condensed Consolidated Balance Sheets which represented a 31.3% and 42.1% equity investment, respectively. The Company accounts for its investment in Woongjin Energy using the equity method of accounting in which the investment is classified as "Other long-term assets" in the Condensed Consolidated Balance Sheets and the Company's share of Woongjin Energy's income totaling $5.7 million and $10.5 million for the three and nine months ended October 3, 2010, respectively, and $2.6 million and $7.1 million for the three and nine months ended September 27, 2009, respectively, is included in "Equity in earnings of unconsolidated investees" in the Condensed Consolidated Statements of Operations. The Company's maximum exposure to loss as a result of its involvement with Woongjin Energy is limited to the carrying value of its investment.

The Company recognized zero and $0.3 million in revenue during the three and nine months ended October 3, 2010 related to the sale of solar panels to Woongjin Energy. As of October 3, 2010 no amounts remained due and receivable from Woongjin Energy related to the sale of these solar panels.

Summarized financial information adjusted to conform to U.S. GAAP for Woongjin Energy, as it qualifies as a "significant investee" of the Company as defined in SEC Regulation S-X Rule 10-01(b)(1) for the nine months ended October 3, 2010 and September 27, 2009 is as follows:

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30,618

Statement of Operations

(In thousands)	**Nine Months Ended** **October 3, 2010**	**September 27, < font style="font-family:inherit;font-size:10pt;font-weight:bold;">2009**
Revenue	$ 91,944	$ 67,249
Cost of revenue	49,895	
Gross margin	42,049	36,631
Operating income	37,194	33,121
Net income	28,413	15,463

In the past, the Company concluded that it was not the primary beneficiary of the joint venture since, although the Company and Woongjin were both obligated to absorb losses or had the right to receive benefits from Woongjin Energy that were significant to Woongjin Energy, such variable interests held by the Company did not empower it to direct the activities that most significantly impacted Woongjin Energy's economic performance. In reaching this determination, the Company considered the significant control exercised by Woongjin over the venture's Board of Directors, management and daily operations, Woongjin's guarantee of the venture's debt, as well as the relative strategic importance of the venture to both parties. Furthermore, as a result of Woongjin Energy completing its IPO and the sale of 15.9 million new shares of common stock on June 30, 2010, the Company has concluded that Woongjin Energy is no longer a VIE.

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. The Company and First Philec have funded the joint venture through capital investments. The Company supplies to the joint venture silicon ingots and technology required for slicing silicon. Once manufactured, the Company purchases the completed silicon wafers from the joint ve nture under a five-year wafering supply and sales agreement through 2013. As of October 3, 2010 and January 3, 2010, $3.2 million and $1.3 million, respectively, remained due and receivable from First Philec Solar related to the wafer slicing process of silicon ingots supplied by the Company to the joint venture. Payments to First Philec Solar for wafer slicing services of silicon ingots totaled $23.4 million and $61.6 million during the three and nine months ended October 3, 2010, respectively, and $13.8 million and $29.6 million during the three and nine months ended September 27, 2009, respectively. As of October 3, 2010 and January 3, *2010, $5.9 million and $3.1 million, respectively, remained due and payable to First Philec Solar related to the purchase of silicon wafers.*

As of October 3, 2010 and January 3, 2010, the Company had a $6.4 million and $6.0 million, respectively, investment in the joint venture in its Condensed Consolidated Balance Sheets which represented a 20% equity investment. The Company accounts for its investment in First Philec Solar using the equity method of accounting since the Company is able to exercise significant influence over the joint venture due to its board positions. The Company's investment is classified as "Other long-term assets" in the Condensed Consolidated Balance Sheets and the Company's share of First Philec Solar's income of $0.1 million and $0.4 million in the three and nine months ended October 3, 20 10, respectively, and income of zero and losses of $0.1 million in the three and nine months ended September 27, 2009, respectively, is included in "Equity in earnings of unconsolidated investees" in the Condensed Consolidated Statements of Operations. The amount of equity in earnings increased in the three and nine months ended October 3, 2010 as compared to the same periods in 2009 due to increases in production since First Philec Solar became operational in the second quarter of fiscal 2008. The Company's maximum exposure to loss as a result of its involvement with First Philec Solar is limited to the carrying value of its investment.

The Company has concluded that it is not the primary beneficiary of the joint venture 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 b y 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 venture's Board of Directors, management and daily operations, as well as the relative strategic importance of the venture to both parties.

Equity Option Agreement with NorSun

In January 2008, the Company entered into an Option Agre ement with NorSun, a manufacturer of silicon ingots and wafers, under which the Company would deliver cash advance payments to NorSun for the purchase of polysilicon under a long-term polysilicon supply agreement. The Company paid a cash advance totaling $16.0 million to an escrow account as security for NorSun's right to future advance payments. This $16.0 million cash advance was reflected as restricted cash on the Condensed Consolidated Balance Sheets as of both October 3, 2010 and January 3, 2010. In addition, the Company paid a cash advance of $5.0 million to NorSun during the fourth quarter of fiscal 2009 that was reflected as advances to suppliers on the Condensed Consolidated Balance Sheets as of b oth October 3, 2010 and January 3, 2010. Under the terms of the Option Agreement, the Company could exercise a call option and apply the advance payments to purchase from NorSun a 23.3% equity interest, subject to certain adjustments, in a joint venture that is being constructed to manufacture polysilicon in Saudi Arabia. The Company could exercise its option at any time until six months following the commercial operation of the Saudi Arabian polysilicon manufacturing facility. The Option Agreement also provided NorSun an option to sell the 23.3% equity interest to the Company. NorSun's option was exercisable through the six months following commercial operation of the polysilicon manufacturing facility. T he Company accounted for the put and call options as one instrument, which were measured at fair value at each reporting period. The changes in the fair value of the combined option were recorded in "Other, net" in the Condensed Consolidated Statements of Operations and have not been material.

On July 2, 2010, NorSun exercised its option to sell the 23.3% equity interest in the joint venture to the Company at a price of $5.0 million, equivalent to the cash advance paid to NorSun by the Company during the fourth quarter of fiscal 2009. The Company and NorSun anticipate that the share transfer will occur in the fourth quarter of fiscal 2010. Beginning on the date the shares are transferred, the Company will account for its investment in the joint venture using the equity method of accounting.

The Company has concluded that it is not the primary beneficiary of the joint venture since, although the Company, NorSun and other private equity and principal investment firms that own equity in the joint venture are each obligated to absorb losses or have the right to receive benefits from the joint venture that are significant to the venture, such variable interests held by the Company do not empower it to direct the activities that most significantly impacts the joint venture's economic performance. In reaching this determination, the Company considered the significant control exercised by NorSun and other private equity and principal investment firms over the venture's Board of Directors, management and daily operations, as well as the relative strategic importance of the venture to all parties.

Joint Venture with AUO

On May 27, 2010, the Company, through its subsidiaries SunPower Technology, Ltd. ("SPTL") and AUOSP, formerly SunPower Malaysia Manufacturing Sdn. Bhd. ("SPMY"), entered into a joint venture agreement with AUO, and AU Optronics Corporation, the ultimate parent company of AUO ("AUO Taiwan"). The joint venture transaction closed on July 5, 2010. The

Company, 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 solar cells and sell them on a "cost-plus" basis to the Company and AUO.

On July 5, 2010, 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 (see Note 8).

The joint venture agreement provides for both equity and debt financing components. The shareholders will not be permitted to transfer any of AUOSP's shares held by them, except to each other and to their direct or indirect wholly-owned subsidiaries. On July 5, 2010, the Company, through SPTL, and AUO each contributed total initial funding of Malaysian Ringgit 45.0 million and will contribute additional amounts from fiscal 2011 to 2014 amoun ting to $335 million by each shareholder, 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 million in the aggregate (See Note 8).

AUOSP retains the existing debt facility agreement with the Malaysian Government for FAB3 and AUO has agreed to arrange for additional third-party debt financing for AUOSP. If such third-party debt financing is not so obtained, then AUO has agreed to procure or provide to AUOSP, on an interim basis, the debt financing reasonably necessary to fund in a timely manner AUOSP's business plan, until such time as third-party financing is procured and replac es such interim financing.

The Company has concluded that it is not the primary beneficiary of the joint venture 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 the VIE that most significantly impact its 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 of accounting. 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 "Other income" in both the three and nine months ended October 3, 2010 within the Company's Condensed Consolidated Statements of Operations.

In determining the fair value of the opening investment in AUOSP the Company used a combination of the cost, market and income approaches. The gain resulting from the fair value of the initial investment is primarily related to the intellectual property contributed by both shareholders under the licensing agreement. The contributed technology under the licensing agreement with AUOSP was valued using a relief from royalty method, which applies a royalty rate based on an analysis of market-derived royalty rates for guideline intangible assets. The royalty rate was applied to anticipated revenue which is projected over the expected remaining useful life of the technology.

As of October 3, 2010, the Company had a $27.7 million investment in AUOSP in its Condensed Consolidated Balance Sheet which represents its 50% equity investment. The Company acc ounts for its investment in AUOSP using the equity method of accounting in which the investment is classified as "Other long-term assets" in the Condensed Consolidated Balance Sheet. The Company will account for its share of AUOSP's net income or loss for the three months ended October 3, 2010 in "Equity in earnings of unconsolidated investees" in the Condensed Consolidated Statement of Operations during the fourth quarter of fiscal 2010 due to a quarterly lag in reporting. As of October 3, 2010, $0.7 million remained due and payable to AUOSP and $6.2 million remained due and receivable from AUOSP. 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 10. DEBT AND CREDIT SOURCES

The following table summarizes the Company's outstanding debt as of October 3, 2010 and their related maturity dates:

(In thousands)	Face Value	Payments Due by Period 2010 (remaining three months)	2011	2012	2013	2014	Beyond 2014
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
	$ 678,687	$ —	$ —	$ 198,608	$ —	$ 23 0,000	$ 250,079

Convertible Debt

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

	October 3, 2010			January 3, 2 010		
(In thousands)	Carrying Value	Face Value	Fair Value (1)	Carrying Value	Face Value	Fair Value (1)
4.50% debentures	$ 176,709	$ 250,000	$ 232,910	$ —	$ —	$ —
4.75% debentures	230,000	230,000	212,693	230,000	230,000 & nbsp;	270,250
1.25% debentures	178,555	198,608	180,982	168,606	198,608	172,789
0.75% debentures	79	79	74	137,968	143,883	139,746
	$ 585,343	$ 678,687	$ 626,659	$ 536,574	$ 572,491	$ 582,785

(1) The fair value of the convertible debt was determined based on qu oted market prices as reported by an independent pricing source.

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 on the 4.50% debentures is payable on March 15 and September 15 of each year, which commenced September 15, 2010. The 4.50% debentures mature on March 15, 2015. The 4.50% debentures are convertible only into cash, and not into shares of the Company's class A 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 the Company's class A 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 class A common stock over the applicable observation period. The 4.50% debentures will not be convertible, in accordance with the provisions of the debenture agreement, until the first quarter of fiscal 2011. 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 there-under, 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 wit h 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 Condensed 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 disco unt on the 4.50% debentures of $71.8 million) in the Company's Condensed 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 (loss) on mark-to-market derivatives" in the Company's Condensed Consolidated Statements of Operations for the nine months ended October 3, 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 Condensed Consolidated Balance Sheet. In the three and nine months ended October 3, 2010, the Company recognized a non-cash loss of $4.0 million and a non-cash gain of $36.3 million, respectively, recorded in "Gain (loss) on mark-to-market derivatives" in the Company's Condensed Consolidated Statements of Operations related to the change in fair value of the embedded cash conversion option. The fair value liability of the embedded cash conversion option as of October 3, 2010 totaled $45.1 million and is classified within "Other long-term liabilities" in the Company's Condensed Consolidated Balance Sheet.

The embedded cash conversion option and the over-allotment option derivative instruments are fair valued utilizing Level 2 inputs consisting of the exercise price of the instruments, the Company's class A common stock price, the risk free interest rate, the contractual term and the Company's class A common stock volatility. Such derivative instruments are not traded on an open market as the banks are the counterparties to the instruments. The over-allotment option was exercised during the second quarter of fiscal 2010 and the final value of the over-allotment option represented the difference between the value of the embedded cash conversion option at the original trade date of the initial $220.0 million in principal amount of the 4.50% debentures and the trade date of the over-allotment option. This final value was ad justed against the original issuance discount of the cash convertible bond.

Significant inputs for the valuation of the embedded cash conversion option as of October 3, 2010 are as follows:

	Embedded option (1)
Stock price	$ 14.06
Exercise price	$ 22.53
Interest rate	1.04%
Stock volatility	51.50%
Maturity date	February 18, 2015

(1) Th e 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 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 class A 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 class A common stock over the life of the embedded conversion option.

The Company recognized $2.5 million and $5.7 million in non-cash interest expense during the three and nine months ended October 3, 2010, respectively, related to the amortization of the debt discount on the 4.50% debentures. The principal amount of the outstanding 4.50% debentures, the unamortized discount and the net carrying value as of October 3, 2010 was $250.0 million, $73.3 million and $176.7 million, respectively. As of October 3, 2010 the remaining weighted average period over which the unamortized debt discount associated with the 4.50% debentures will be recognized is as follows:

(In thousands)	Debt Discount	
2010 (remaining three months)	$	3,248
2011		13,368
2012		15,225
2013	17,340	
2014		19,748
Thereafter		4,362
	$	73,291

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 "Bond Hedge") and warrant transactions (collectively, the "Warrants" and together with the Bond Hedge, the "CSO2015"), with certain of the initial purchasers of the 4.50% cash convertible debentures or their affiliates. The CSO2015 is meant to reduce the Company's exposure to potential cash payments upon conversion of the 4.50% debentures. The net cost of the CSO2015 was $12.1 million and $1.6 million in the first and second quarters of fiscal 2010, respectively.

Under the terms of the Bond Hedge, the Company bought from affiliates of certain of the initial purchaser s' options to acquire, at an exercise price of $22.53 per share, subject to anti-dilution adjustments, cash in an amount equal to the market value of up to 9.8 million shares of the Company's class A common stock. Each Bond Hedge is a separate transaction, entered into by the Company with each option counterparty, and is not part of the terms of the 4.50% debentures. The Company paid aggregate consideration of $66.2 million and $9.0 million for the Bond Hedge on March 25, 2010 and April 5, 2010, respectively.

Under the terms of the 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 anti-dilution adjustments, cash in an amount equal to the market value of up to 9.8 million shares of the Company's class A common stock. Each Warrant transaction is a separate transaction, entered into by the Company with each option counterparty, and is not part of the terms of the 4.50% debentures. The Warrants were sold for aggregate cash consideration of $54.1 million and $7.4 million on March 25, 2010 and April 5, 2010, respectively.

The CSO2015, which are indexed to the Company's class A common stock, are derivative instruments that require mark-to-market accounting treatment due to their cash settlement features until such transactions settle or expire. The initial fair value of the Bond Hedge of $75.2 million was classified as "Other long-term assets" and the initial fa ir value of the Warrants of $61.5 million was classified as "Other long-term liabilities" in the Company's Condensed Consolidated Balance Sheet. As of October 3, 2010, the fair value of the Bond Hedge is $44.7 million, a decrease of $30.5 million, and the fair value of the Warrants is $37.0 million, a decrease of $24 .5 million. The change in fair value of these two derivative instruments resulted in a mark-to-market net non-cash gain of $1.0 million and a net non-cash loss of $6.0 million in "Gain on mark-to-market derivatives" in the Company's Condensed Consolidated Statements of Operations during the three and nine months ended October 3, 2010, respectively.

The Bond Hedge and Warrants derivative instruments are fair valued utilizing Level 2 inputs consisting of the exercise price of the instruments, the Company's class A stock price, the risk free interest rate, the contractual term and the Company's class A common stock volatility. 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.

The Bond Hedge and Warrants described above repre sent a call spread overlay with respect to the 4.50% debentures. Assuming full performance by the counterparties, 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 into cash.

Significant inputs into the valuation of the Bond Hedge and Warrants at the October 3, 2010 measurement date are as follows:

	Bond Hedge (1)	Warrants (1)
Stock price	$ 14.06	$ 14.06
Exercise price	$ 22.53	$ 27.03
Interest rate	1.04%	1.04%
Stock volatility	51.50%	48.80%
Credit risk adjustment	1.18%	Not applicable
Maturity date	February 18, 2015	July 7, 2015

(1) The valuation model utilizes these inputs to value the right but not the obligation to purchase one share at $22.53 and $27.03 for the Bond Hedge and Warrants, respectively. The Company utilized a Black-Scholes model to value the Bond Hedge and Warrants. The underlying input assumptions were determined as follows:
   (i) Stock price. The closing price of the Company's class A common stock on the last trading day of the quarter.
   (ii) Exercise price. The exercise price of the Bond Hedge and Warrants.
   (iii) Interest rate. The Treasury Strip rate associated with the life of the Bond Hedge and Warrants.
   (iv) Stock volatility. The volatility of the Company's class A common stock over the life of the Bond Hedge and Warrants.
   (v) Credit risk adjustment. Represents the 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”) and received net proceeds of $225.0 million, before payment of the net cost of the call spread overlay described below. Interest on the 4.75% debentures is payable on April 15 and October 15 of each year, which commenced October 15, 2009. 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 class A 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 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 principa l 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 there-under, 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 subsidiar ies.

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 “Purchased Options”) with affiliates of certain of the underwriters of the 4.75% debentures. The Purchased Options allow the Company to purchase up to 8.7 million shares of the Company's class A common stock and are intended to reduce the potential dilution upon c onversion of the 4.75% debentures in the event that the market price per share of the Company's class A common stock at the time of exercise is greater than the conversion price of the 4.75% debentures. The Purchased Options will be settled on a net share basis. Each convertible debenture hedge transaction is a separate transaction, entered into by the Company with each option counterparty, and is not part of the terms of the 4.75% debentures. The Company paid aggregate consideration of $97.3 million for the Purchased Options on May 4, 2009. The exercise price of the Purchased Options is $26.40 per share of the Company's class A common stock, subject to adjustment for customary anti-dilution and other events.

The Purchased Options, which are indexed to the Company's class A 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, resulting in a non-cash gain on Purchased Options of $21.2 million in the second quarter of fiscal 2009 in “Gain (loss) on mark-to-market derivatives” in the Company's Condensed Consolidated Statement of Operations.

The Company also entered into certain warrant transactions whereby the Company agreed to sell to affiliates of certain *of the 4.75% debenture underwriters warrants to acquire up to 8.7 million shares of the Company's class A common stock. The warrants expire in 2014. If the market price per share of the Company's class A common stock exceeds the exercise price of the warrants, the warrants will have a dilutive effect on the Company's earnings per share. Each warrant transaction is a separate transaction, entered into by the Company with each option 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 warrants. The warrants were sold for aggregate cash consideration of $71.0 million on May 4, 2009. The exercise price of the warrants is $38.50 per share of the Company's class A common stock, subject to adjustment for customary anti-dilution and other events.*

Other than the initial period before the exercise of the 4.75% debenture underwriters' over-allotment option, as described above, the CSO2014 are not subject to mark-to-market accounting treatment since they may only be settled by issuance of the Company's class A common stock. The Purchased Options and sale of warrants described above represent a call spread overlay with respect to the 4.75% debentures. Assuming full performance by the counterparties, the transactions effectively increase the conversion price of the 4.75% debentures from $26.40 to $38.50. The Company's net cost of the Purchased Options and sale of warrants for the CSO2014 was $26.3 million.

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 m illion in cash and 1,000 shares of class A common stock. 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. 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 class A common stock. The initial effective conversion price of the 1.25% debentures is $56.75 per shar e and is subject to customary adjustments in certain circumstances.

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 the third quarter of 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 October 3, 2010, 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 Fe bruary 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 and short-term liabilities in the Company's Condensed Consolidated Balance Sheets as of October 3, 2010 and January 3, 2010, respectively, due to the ability of the holders to require the Company to repurchase its 0.75% debentures commencing on August 1, 2015 and August 2, 2010, respectively. 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, class A common stock or a combination of cash and class A 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, u nsecured 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 class A 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% deben tures 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 class A common stock on at least 20 of the last 30 *trading days during the fiscal quarters ending October 3, 2010 and January 3, 2010 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 unable to exercise their right to convert the debentures, based on the market price conversion trigger, on any day in the first and fourth quarters of fiscal 2010. Accordingly, the Company classified its 1.25% debentures and 0.75% debentures as long-term in its Condensed Consolidated Balance Sheet as of October 3, 2010 and its 1.25% debentures as long-term in its Condensed Consolidated Balance Sheet as of January 3, 2010. This test is repeated each fiscal quarter, therefore, if the market price conversion trigger is satisfied in a subsequent quarter, the 1.25% debentures and 0.75% debentures may again 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 principal amount of the outstanding debentures, the unamortized discount and the net carrying value as of October 3, 2010 was $198.7 million, $20.1 million and $178.6 million, respectively, and as of January 3, 2010 was $342.5 million, $35.9 million and $306.6 million, respectively.

The Company recognized $3.2 million and $13.9 million in non-cash interest expense during the three and nine months ended October 3, 2010, respectively, as compared to $4.9 million and $14.1 million in the thre e and nine months ended September 27, 2009, respectively, related to the 1.25% debentures and 0.75% debentures. As of October 3, 2010 the remaining weighted average period over which the unamortized debt discount associated with the 1.25% debentures and 0.75% debentures will be recognized is as follows:

(In thousands)		**Debt Discount**
2010 (remaining three months)	$	3,468
2011		14,687
2012		1,898
	$	20,053

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 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 class A common stock to CSI, an affiliate of Credit Suisse, one of the underwriters of the 0.75% debentures. The loaned shares a re 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 class A 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 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 lendi ng 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 class A 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 o f 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 have not been 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 Com pany'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.

The shares lent to CSI will continue to be 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 to consider 1.8 million shares lent to CSI as issued and outstanding for purposes of calculating earnings per share.

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 Condensed 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 Condensed 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 L BIE and CSI, respectively, totaled $1.8 million and $0.7 million, respectively. The new accounting guidance resulted in a significant non-cash loss resulting from 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 class A common stock loaned and unreturned by LBIE is $213.4 million, which was expensed retrospectively in the third quarter of fiscal 2008 (see Note 1).

The Company recognized $0.1 million and $0.4 million in non-cash interest expense during the three and nine months ended October 3, 2010, respectively, as compared to $0.1 million and $0.5 million in the three and nine months ended September 27, 2009, respectively, related to the share lending arrangements. As of October 3, 2010 the remaining weighted average period over which the unamortized issuance costs will be recognized is as follows:

(In thousands)	**Issuance Costs**
2010 (remaining three months)	$ 91
2011	362
2012	45
	$ 498

Debt Facility Agreement with the Malaysian Government

On December 18, 2008, AUOSP, then a wholly-owned subsidiary of the Company, entered into a facility agreement with the Malaysian Government. In connection with the facility agreement, AUOSP executed a debenture and deed of assignment in favor of the Malaysian Government, granting a security interest in a deposit account and all assets of AUOSP to collateralize its obligations under the facility agreement. As of January 3, 2010, the Company had outstanding Malaysian Ringgit 750.0 million ($219.0 million based on the exchange rates as of January 3, 2010) under the facility agreement to finance the construction of FAB3 in Malaysia. The Company deconsolidated AUOSP in the third quarter of fiscal 2010, and the debt facility has been retained by AUOSP. The Company does not guarantee or collateralize the debt facility held by AUOSP (see Note 9).

Project Loans

In connection with its acquisition of SunRay, the Company consolidated the project debt of Cassiopea, which was provided by a consortium of lenders ("Cassiopea Lenders"), to finance the construction and operations of the 20 MWac solar power plant in Montalto di Castro, Italy. In connection with the credit agreement, Cassiopea executed various deeds of assignment in favor of the Cassiopea Lenders, granting them a security interest in substantially all assets and future cash flows of Cassiopea. The sale of Cassiopea on August 5, 2010 included all related assets and liabilities, including outstanding debt (see Note 3).

On May 20, 2010, Centauro PV S.r.l. ("Centauro"), a wholly-owned subsidiary of SunRay, entered into a credit facility agreement with Barclays Bank PLC ("Barclays") to finance the construction and operations of the 8 MWac Centauro Photovoltaic Park being constructed in Montalto di Castro, Italy. In connection with the credit facility agreement, Centauro executed various deeds of assignment in favor of Barclays, granting it a security interest in substantially all assets and future cash flows of Centauro. The sale of Centauro on October 1, 2010 included all related assets and liabilities, including outstanding debt.

Concurrent with entering into the agreements above, Cassiopea and Centauro entered into interest rate swaps with the Cassiopea Lenders and Barclays, respectively, to mitigate the interest rate risk on the debt. The interest rate swaps are derivative instruments which are fair valued utilizing Level 2 inputs because valuations are based on quoted prices in markets that are not active and for which all significant inputs are observable, directly or indirectly. Valuation techniques utilize a variety of inputs, including contractual terms, market prices, yield curves, credit curves and measures of volatility. Such inputs can generally be verified and selections do not involve significant management judgment. Prior to the sale of Cassiopea and Centauro on August 5, 2010 and October 1, 2010, respectively, which included all related assets and liabilities, including interest rate swaps, the Company had not designated the interest rate swaps as hedging instruments. For derivative instruments not designated as hedging instruments, the Company recognizes changes in the fair value in earnings in the period of change. Losses on the interest rate swaps associated with the Cassiopea Project Loan were included in "Income from discontinued operations, net of taxes" in the Company's Condensed Consolidated Statements of Operations. Losses on the interest rate swaps associated with the Centauro Project Loan were included in "Interest expense" in the Company's Condensed Consolidated Statements of Operations. As of October 3, 2010, the Company had no outstanding interest rate swap contracts.

Piraeus Bank Loan

On March 26, 2010, the Company closed its acquisition of SunRay and its wholly-owned subsidiaries, including Energy Ray Anonymi Energeiaki Etaireia ("Energy Ray"). On October 22, 2008, Energy Ray entered into a current account overdraft agreement with Piraeus Bank to obtain the funds necessary for pre-construction activities in Greece. In connection with the agreement, Energy Ray and its subsidiaries executed various account pledge agreements in favor of Piraeus Bank, granting them a security interest in cash deposit accounts where the proceeds of the loan were on deposit. The agreement's obligations were those of Energy Ray and its subsidiaries only and were non-recourse to the Company. On August 12, 2010, Energy Ray repaid its current account overdraft balance of Euro 26.7 million in full with Piraeus Bank which elimi nated the need to provide cash collateral.

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 C ompany guaranteed SPML's obligations to IFC.

As of October 3, 2010, SPML had not borrowed any funds under the mortgage loan agreement. On November 12, 2010, SPML borrowed $50 million under the mortgage loan agreement (see Note 17). A total of $25 million remains available for borrowing under the mortgage loan agreement. 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 LIB OR 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.

Term Loan with Union Bank

On April 17, 2009, the Company entered into a loan agreement with Union Bank under which the Company borrowed $30.0 million for a term of three years at an interest rate of LIBOR plus 2%. As of January 3, 2010, the outstanding loan balance was $30.0 million of which $11.3 million and $18.7 million had been clas sified as "current portion of long-term debt" and "Long-term debt," respectively, in the Company's Condensed Consolidated Balance Sheet, based on projected quarterly installments commencing June 30, 2010. On April 9, 2010 the Company repaid all principal and interest outstanding under the term loan with Union Bank.

Revolving Credit Facility with Union Bank

On October 29, 2010, the Company entered into a revolving credit facility agreement with Union Bank. Until th e maturity date of October 28, 2011, the Company may borrow up to $70.0 million under the revolving credit facility. Amounts borrowed may be repaid and reborrowed until October 28, 2011. The revolving credit facility may be increased up to $100.0 million at the option of the Company and upon receipt of additional commitments from lenders. On October 29, 2010, the Company drew down $70.0 million under the revolving credit facility.

The amount available for borrowing under the revolving credit facility is further capped at 30% of the market value of the Company's shares in Woongjin Energy ("Borrowing Base"). If at any time the amount outstanding under the revolving credit facility is greater than the Borrowing Base, the Company must repay such difference wit hin two business days. In addition, upon a material adverse change which, in the sole judgment of Union Bank, would adversely affect the ability of Union Bank to promptly sell the Woongjin Energy shares, including but not limited to any unplanned closure of the Korean Stock Exchange that lasts for more than one trading session, the Company must repay all outstanding amounts under the revolving credit facility within five business days, and the revolving credit facility will be terminated. As security under the revolving credit facility, the Company pledged its holding of 19.4 million shares of common stock of Woongjin Energy to Union Bank (see Note 9).

The Company is 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 obligations of the Company under the revolving credit facility are guaranteed by its wholly-owned subsidiaries SunPower North America, LLC and SunPower Corporation, Systems. The revolving credit facility includes representations, covenants, and events of default customary for financing transactions of this type (see Note 17).

Letter of Credit Facility with Deutsche Bank AG New York Branch ("Deutsche Bank")

On April 12, 2010, the Company and certain subsidiaries of the Company entered into a letter of credit facility agreement with Deutsche Bank, as issuing bank and as administrative agent, and the financial institutions parties thereto from time to time. The letter of credit facility provides for the issuance, upon request by the Company, of letters of credit by the issuing bank in order to support obligations of the Company, in an aggregate amount not to exceed $350.0 million (or up to $400.0 million upo n the agreement of the parties). Each letter of credit issued under the letter of credit facility must have an expiration date no later than the earlier of the second anniversary of the issuance of that letter of credit and April 12, 2013, except that: (i) a letter of credit may provide for automatic renewal in one-year periods, not to extend later than April 12, 2013; and (ii) up to $100.0 million in aggregate amount of letters of credit, if cash-collateralized, may have expiration dates no later than the fifth anniversary of the closing of the letter of credit facility. For outstanding letters of credit under the letter of credit facility the Company pays a fee of 0.50% plus any applicable issuances fees charged by its issuing and correspondent banks. The Company also pays a commitment fee of 0.20% on the unused portion of the facility.

In connection with the entry into the letter of credit facility, the Company entered into a cash security agreement with Deutsche Bank, granting a security interest in a collateral account to collateralize its obligations in connection with any letters of credit that might be issued under the letter of credit facility. The Company is required to maintain in the collateral account cash and securities equal to 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. The obligations of the Company are also guaranteed by SunPower North America, LLC and SunPower Corporation, Systems, both wholly-owned subsidiaries of the Company, who, together with the Company, have granted a security interest, in certain of their accounts receivable and inventory to Deutsche Bank to collateralize the Company's obligations. The lett er of credit facility includes representations, covenants, and events of default customary for financing transactions of this type.

As of October 3, 2010, letters of credit issued under the letter of credit facility totaled $224.3 million and were collateralized by short-term and long-term restricted cash of $16.6 million and $102.0 million, respectively, on the Condensed Consolidated Balance Sheet.

Amended Credit Agreement with Wells F argo, N.A. ("Wells Fargo")

On April 12, 2010, the Company entered into an amendment of its credit agreement with Wells Fargo. Under the amended credit agreement, letters of credit outstanding under the collateralized letter of credit facility will remain outstanding through November 29, 2010. On April 26, 2010, the uncollateralized letter of credit subfeature expired and as of October 3, 2010 all outstanding letters of credit on the subfeature had been moved to either the Deutsche Bank letter of credit facility or the Wells Fargo collateralized letter of credit facility. Letters of credit totaling $2.4 million were issued by Wells Fargo under the collateralized letter of credit facility as of October 3, 2010 and were collateralized by short-term and long-term restricted cash of $2.1 million and $0.4 million, respectively, on the Condensed Consolidated Balance Sheet. Letters of credit totaling $150.7 million were issued by Wells Fargo under the collateralized letter of credit facility as of January 3, 2010 and were collateralized by short-term and long-term restricted cash of $61.9 million and $99.7 million, respectively, on the Condensed Consolidated Balance Sheet. The Company pays a fee of 0.2% to 0.4% depending on maturity for outstanding letters of credit under the collateralized letter of credit facility.

In connection with the amended credit agreement, the Company entered into a security agreement with Wells Fargo, granting a security interest in a securities account and a deposit account to collateralize its obligations in connection with any letters of credit that might be issued under the collateralized letter of credit facility. SunPower North America, LLC and SunPower Corporation, Systems, both wholly-owned subsidiaries of the Company, also entered into an associated continuing guaranty with Wells Fargo. The terms of the amended credit agreement include certain conditions to borrowings, representations and covenants, and events of default customary for financing transactions of this type.

Note 11. COMPREHENSIVE INCOME (LOSS)

Comprehensive income (loss) is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. Comprehensive income (loss) includes unrealized gains and losses on the Company's available-for-sale investments, foreign currency derivatives designated as cash flow hedges and translation adjustments. The components of comprehensive income (loss) were as follows:

	Three Months Ended		Nine Months Ended	
(In thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Net income	$ 20,116	$ 19,506	$ 26,473	$ 23,978
Other comprehensive income (loss):				
Translation adjustment	(831)	4,124	903	(9,934)
Unrealized gain (loss) on derivatives	(77,042)	331	(14,763)	4,170
Unrealized gain on investments	—	—	—	8
Estimated provision for income taxes	8,940	(4)	1,664< div style="text-align:left;">	(277)
Net change in accumulated other comprehensive loss	(68,933)	4,451	(12,196)	(6,033)
Total comprehensive income (loss)	$ (48,817)	$ 23,957	$ 14,277	$ 17,945

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 and expenses, purchases of foreign sourced equipment and non-U.S. dollar denominated monetary assets and liabilities. The Company does not enter into foreign currency derivative fina ncial instruments for speculative or trading purposes.

The Company is required to recognize derivative instruments as either assets or liabilities at fair value in its Condensed Consolidated 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 rates, interest differentials 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 October 3, 2010 and January 3, 2010, all of which utilize Level 2 inputs under the fair value hierarchy:*

(In thousands)	Balance Sheet Classification	October 3, 2010	January 3, 2010
Assets	Prepaid expenses and other current assets		
Derivatives designated as hedging instruments:			
Foreign currency option contracts		$ 7,889	$ —
Foreign currency forward exchange contracts		84	—
		$ 7,973	$ —
Derivatives not designated as hedging instruments:			
Foreign currency option contracts		$ 1,844	$ 4,936
Foreign currency forward exchange contracts		9,100	64
		$ 10,944	$ 5,000
Liabilities	Accrued liabilities		
Derivatives designated as hedging instruments:			
Foreign currency option contracts		$ 14,470	$ —
Foreign currency forward exchange contracts		13,205	—
< /td>		$ 27,675	$ —
Derivatives not designated as hedging instruments:			
Foreign currency option contracts		$ 2,138	$ —
Foreign currency forward exchange contracts		49,609	27,354
		$ 51,747	$ 27,354

Valuations are based on quoted prices in markets that are not active or for which all significant inputs are observable, directly or indirectly. The select ion 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. 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 OTC foreign currency 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.

The following tables summarize the amount of unrealized gain (loss) recogni zed in "Accumulated other comprehensive loss" ("OCI") in "Stockholders' equity" in the Condensed Consolidated Balance Sheets:

	Unrealized Gain (Loss) Recognized in OCI (Effective Portion)	
(In thousands)	As of October 3, 2010	As of January 3, 2010
Derivatives designated as cash flow hedges:	$ 240	$ (41,902)

	Three Months Ended			
	Gain Reclassified from OCI to Revenue (Effective Portion)		Loss Recognized in Other, Net on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing) (1)	
(In thousands)	October 3, 2010	September 27, 2009	October 3, 2010	September 27, 2009
Derivatives designated as cash flow hedges:	$ 13,778	$ &mdash ;	$ (9,810)	$ —

(In thousands)	Nine Months Ended Gain Reclassified from OCI to Revenue (Effective Portion) October 3, 2010	September 27, 2009	Loss Recognized in Other, Net on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing) (1) October 3, 2010	September 27, 2009
Derivatives designated as cash flow hedges:	$ 27,558	$ —	$ (18,077)	$ —

(In thousands)	Three Months Ended Loss Reclassified from OCI to C ost of Revenue (Effective Portion) October 3, 2010	September 27, 2009	Loss Recognized in Other, Net on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing) (1) October 3, 2010	September 27, 2009
Derivatives designated as cash flow hedges:	$ —	$ (10,625)	$ —	$ (1,365)

(In thousands)	Nine Months Ended Loss Reclassified from OCI to Cost of Revenue (Effective Portion) October 3, 2010	September 27, 2009	Loss Recognized in Other, Net on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing) (1) October 3, 2010	September 27, 2009
Derivatives designated as cash flow hedges:	$ (12,478)	$ (10,750)	$ —	$ (3,899)

(1) The amount of loss recognized related to the ineffective portion of derivatives was insignificant.

The following table summarizes the amount of gain (loss) recognized in "Other, net" in the Condensed Consolidated Statement of Operations in the three and nine months ended October&nbs p;3, 2010 and September 27, 2009:

	Three Months Ended		Nine Months Ended	
(In thousands)	October 3, 2010	September 27, 2009	October 3, 2010	September 27, 2009
Derivatives not designated as hedging instruments:	$ (28,275)	$ (12,648)	$ 9,115	$ (16,634)

Foreign Cur rency 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 whi ch 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 October 3, 2010, the Company had designated outstanding hedge option contracts and forward contracts with an aggregate notional value of $241.5 million and $832.4 million, respectively. The maturity dates of the outstanding contracts as of October 3, 2010 range from October 2010 to September 2011. During the third quarter of fiscal 2010 the Company entered into additional designated cash flow hedges to protect certain portions of its anticipated non-functional currency cash flows related to foreign denominated revenues. The Company designates gross revenue 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 Condensed Consolidated Statements of Operations.*

The Company expects to reclassify substantially all of its net losses related to these option and forward contracts that are include d in accumulated other comprehensive loss as of October 3, 2010 to revenue in fiscal 2010 and 2011. 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 as well as the cost of forward points (the difference between forward and spot rates at inception) 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 Condensed Consolidated Balance Sheets. Thereafter, any change to this time value and the cost of forward points is incl uded in "Other, net" in the Condensed Consolidated Statements of Operations.

Non-Designated Derivatives Hedging Cash Flow Exposure

As of January 3, 2010, the Company had non-designated outstanding cash flow hedge option contracts and forward contracts with an aggregate notional value of $228.1 million and $23.8 million, respectively. Prior to November 20, 2009, changes in fair value of the effective portion of hedge contracts were recorded in "Accumulated other comprehensive loss" in "Stockholders' equity" in the Condensed Consolidated Balance Sheets. Amounts deferred in accumulated other comprehensive loss were reclassified to "Cost of revenue" in the Condensed Consolidated Statements of Operations in the periods in which the hedged exposure impacted earnings. The Company discontinued hedge accounting for its cash flow hedges as of November 20, 2009 when it had outstanding cash flow hedge option contracts and forward contracts with an aggregate notional value of $108.4 million and $23.8 million, re spectively. The Company reclassified all of its net losses related to these option and forward contracts that were included in "Accumulated other comprehensive loss" as of January 3, 2010 to "Cost of revenue" in the first quarter of fiscal 2010. As of October 3, 2010, the Company had no non-designated outstanding hedge option contracts and forward contracts that were hedging the cash flow exposure.

Non-Designated Derivates Hedging Transaction Exposure

Other derivatives not designated as hedging instruments consist of forward contracts used to hedge remeasurement of foreign currency denominated monetary assets and liabilities primarily for intercompany transactions, receivables from customers, prepayments to suppliers and advances received 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-desig nates 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 Condensed 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 October 3, 2010 and January 3, 2010, the Company held forward contracts with an aggregate notional value of $25.6 million and $442.6 million, respectively, to hedge balance sheet exposure. These forward contracts have maturities of three month or less.

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 one 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

In the three and nine months ended October 3, 2010, the Company's income tax provision of $3.4 million and $19.5 million, respectively, on income from continuing oper ations before income taxes and equity in earnings of unconsolidated investees of $16.1 million and $25.5 million, respectively, was primarily due to domestic and foreign income in certain jurisdictions, nondeductible amortization of purchased 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 the three and nine months ended September 27, 2009, the Company's income tax provision of $20.0 million and income tax benefi t of $4.5 million, respectively, on income of $36.8 million and $12.5 million before income taxes and equity in earnings of unconsolidated investees, respectively, was primarily attributable to domestic and foreign income taxes in certain jurisdictions where the Company's operations were profitable, net of nondeductible amortization of purchased other intangible assets, discrete stock option deductions and the discrete non-cash gain on Purchased Options of $21.2 million. The Company's interim period tax provision or benefit is estimated based on the expected annual worl dwide tax rate and takes into account the tax effect of discrete items.

Note 14. NET INCOME PER SHARE OF CLASS A AND CLASS B COMMON STOCK

The Company calculates net income per share under the two-class method. Under the two-class method, net income per share is computed by dividing earnings allocated to common stockholders by the weighted average number of common shar es outstanding for the period. In applying the two-class method, earnings are allocated to both common stock and other participating securities based on their respective weighted average shares outstanding during the period. No allocation is generally made to other participating securities in the case of a net loss per share.

Basic weighted average shares is computed using the weighted average of the combined class A and class B common stock outstanding. Class A and class B common stock are 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. The Company's outstanding unvested restricted stock a wards 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. 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. Potentially dilutive securities include stock options, restricted stock units and senior convertible debentures.

The following is a summary of other outstanding anti-dilutive potential comm on stock:

	As of	
(In thousands)	**October 3, 2 010**	**September 27, 2009**
Stock options	318	394
Restricted stock units	1,958	1,960

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

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(In thousands, except per share amounts)	Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Basic net income per share:				
Income from continuing operations	$ 18,546	$ 19,506	$ 17,007	$ 23,978
Less: undistributed earnings allocated to unvested restricted stock awards	(22	(61)	(29)	< font style="font-family:inherit;font-size:10pt;">(92)
Income from continuing operations available to common stockholders	$ 18,524	$ 19,445	$ 16,978	$ 23,886
Basic weighted-average common shares	95,840	94,668	95,519	89,764
Basic income per share from continuing operations	$ 0.19	$ 0.21	$ 0.18	$ 0.27
Basic income per share from discontinued operations	0.02	—	0.10	—
Basic net income per share	$ 0.21	$ 0.21	$ 0.28	$ 0.27
Diluted net income per share:				
Income from continuing operations	$ 18,546	$ 19,506	$ 17,007	$ 23,978
Add: Interest expense incurred on 4.75% debentures, net of tax	1,666	1,666	—	—
Less: undistributed earnings allocated to unvested restricted stock awards	(22)	(60)	(29)	(91)
Income from continuing operations available to common stockholders	$ 20,190	$ 21,112	$ 16,978	$ 23,887
Basic weighted-average common shares	95,840	94,668	95,519	89,764
Effect of dilutive securities:				
Stock options	861	1,436	1,036	1,612
Restricted stock units	235	215	186	137
4.75% debentures	8,712	8,712	—	—
Diluted weighted-average common shares	105,648	105,031	96,741	91,513
Diluted income per share from continuing operations	$ 0.19	$ 0.20	$ 0.18	$ 0.26
Diluted income per share from discontinued operations	0.02	—	0.09	&mdas h;
Diluted net income per share	$ 0.21	$ 0.20	$ 0.27	$ 0.26

Holders of the Company's 4.75% debentures may convert the debentures into shares of the Company's class A common stock, at the applicable conversion rate, at any time on or prior to maturity (see Note 10). 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. In the three and nine months ended October 3, 2010, there were 8.7 million and zero, respectively, dilutive potential common shares under the 4.75% debentures. In the three and nine months ended September 27, 2009, there were 8.7 million and zero, respectively, dilutive potential common shares under the 4.75% debentures.

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 class A common stock at the applicable conversion rate, at any time on or prior to maturity (see Note 10). 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 the nine months ended October 3, 2010 and September 27, 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.

Note 15. STOCK-BASED COMPENSATION

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

	Three Months Ended		Nine Months Ended	
(In thousands)< /div>	**October 3, 2010**	September 27, 2009	**October 3, 2010**	**September 27, 2009**
Cost of revenue:				
Utility and power plants	$ 2,442	$ 1,530	$ 5,265	$ 4,090
Residential and commercial	1,941	2,772	5,759	5,665
Research and development	1,886	1,736	5,822	4,649
Sales, general and administrative	9,396	7,036	21,218	19,800
Total stock-based compensation expense	$ 15,665	$ 13,074	$ 38,064	$ 34,204

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

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	Three Months Ended		Nine Months Ended	
(In thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Employee stock options	$ 550	$ 1,048	$ 1,452	$ 3,346
Restricted stock awards and units	15,115	10,955	37,496	30,470
Shares and options released from re-vesting restrictions	—	—	—	168
Change in stock-based compensation capitalized in inventory	—	1,071	(884)	220
Total stock-based compensation expense	$ 15,665	$ 13,074	$ 38,064	$ 34,204

Note 16. SEGMENT AND GEOGRAPHICAL INFORMATION

In the second quarter of fiscal 2010, the Company changed its segment reporting from the Components Segment and Systems Segment to the UPP Segment and R&C Segment. The CODM assesses the performance of the UPP Segment and R&C Segment using information about their revenue and gross margin after adding back certain non-cash expenses such as amortization of other intangible assets, stock-based compensation expense 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 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. Historical results have been recast under the new re-segmentation.

(As a percentage of total revenue)	Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Revenue by geography:				
United States	32% ;	32%	32%	46%
Europe:				
Italy	38%	29%	27%	20%
Germany	11%	26%	15%	21%
Other	12%	8%	17%	8%
Rest of world	7%	5%	9%	5%
	100%	100%	100%	100%
Revenue by segment (in thousands):			&nbs p;	
Utility and power plants (as reviewed by CODM)	$ 260,979	$ 195,117	$ 532,977	$ 428,668
Revenue earned by discontinued operations	(3,176)	—	(11,081)	—
Utility and power plants	$ 257,803	$ 195,117	$ 521, 896	$ 428,668
Residential and commercial	$ 292,842	$ 270,244	$ 760,261	$ 547,677
Cost of revenue by segment (in thousands):				
Utility and power plants (as reviewed by CODM)	$ 208,845	$ 140, 656	$ 412,535	$ 346,498
Amortization of intangible assets	946	683	2,409	2,049
Stock-based compensation expense	2,442	1,530	5,265	4,090
Non-cash interest expense	293	130	969	974
Utility and power plants	$ 212,526	$ 142,999	$ 421,178	$ 353,611
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Residential and commercial (as reviewed by CODM)	$ 221,578	$ 217,406	$ 575,882	< /td> $ 436,854
Amortization of intangible assets	1,745	2,119	5,994	6,341
Stock-based compensation expense	1,941	2,772	5,759	5,665
Non-cash interest expense	270	235	1,165	1,131
Residential and commercial	$ 225,534	$ 222,532	$ 588,800	$ 449,991
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Gross margin by segment:				
Utility and power plants (as reviewed by CODM)	20%	28%	23 %	19%
Residential and commercial (as reviewed by CODM)	24%	20%	24 %	20%
Utility and power plants	18% & nbsp;	27%	19%	18%
Residential and commercial	23%	18%	23%	18%

(As a perce ntage of total revenue)		Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Significant Customers:	**Business Segment**				
Etrion Corporation	Utility and power plants	12%	*	*	*
Veronagest SpA	Utility and power plants	10%	*	*	*
SunRay	Utility and power plants	**	15%	**	*
Florida Power & Light Company	Utility and power plants	*	*	*	14%

*	*denotes less than 10% during the period*

***   SunRay became a wholly-owned subsidiary of the Company on March 26, 2010*

Note 17. SUBSEQUENT EVENTS

On October 29, 2010 the Company entered into a revolving credit facility agreement with Union Bank under which it may borrow up to $70.0 million. On October 29, 2010, the Company drew down $70.0 million under the revolving credit facility (see Note 10).

On November 12, 2010, SPML borrowed $50 million under the mortgage loan agreement with IFC (see Note 10).

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

Cautionary Statement Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements that do not represent historical facts and may be based on underlying assumptions. We use words such as "may," "will," "should," "could," "would," "expect," "plan," "anticipate," "believe," "estimate," "predict," "potential" and "continue" to identify forward-looking statements in this Quarterly Report on Form 10-Q including our plans and expectations regarding future financial results, operating results, business strategies, projected costs, products and utilities projects, competitive positions, management's plans and objectives for future operations, the success of our joint ventures, the sufficiency of our cash and our liquidity, our ability to obtain financing, capital expenditures, outcome of litigation, our exposure to foreign exchange, interest and credit risk, the likelihood of a customer exercising its system put rights, and industry trends. Such forward-looking statements are based on information available to us as of the date of this Quarterly Report on Form 10-Q and involve a number of risks and uncertainties, some beyond our control, that could cause actual results to differ materially from those anticipated by these forward-looking statements. Please see "PART II. OTHER INFORMATION, Item 1A: Risk Factors" and our other filings with the Securities and Exchange Commission, including our Annual Report on Form 10-K for the year ended January 3, 2010, 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 Condensed Consolidated Financial Statements and the accompanying Notes to Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q. The following information reflects the impact of the restatement of our previously issued condensed consolidated financial statements for the three and nine months ended September 27, 2009. Our fiscal quarters end on the Sunday closest to the end of the applicable calendar quarter. All references to fiscal periods apply to our fiscal quarters or year.

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 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 kilowatts 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:

- high performance delivered by enhancing energy delivery and financial return through systems technology design;
- customer service and systems performance delivered using state of the art monitoring, reporting and maintenance management systems;

- cutting edge systems design to meet customer needs and reduce cost, including non-penetrating, fast roof installation technologies; and
- channel breadth and flexible delivery capability including turnkey systems.

Our solar power systems are designed to generate electricity over a system life typically exceeding 25 years and are principally designed to be used in large-scale applications with system ratings of typically more than 500 k ilowatts. Worldwide, we have more than 650 megawatts of SunPower solar power plant systems operating or under contract. We sell distributed rooftop and ground-mounted solar power systems as well as central-station power plants around the globe. In the United States, distributed solar power systems are typically: (i) rated at more than 500 kilowatts of capacity to provide a supplemental, distributed source of electricity for a customer's facility; as well as (ii) ground mount systems reaching up to 250 megawatts for regulated utilities. In the United States, many customers choose to purchase solar electricity under a power purchase agreement ("PPA") with a financing company that buys the system from us. In Europe, our products and systems are typically purchased by a financing company and operated as central-station solar power plants. These power plants are rated with capacities of approximately one to thirty megawatts, and generate electricity for sale under tariff to private and public utilitie s.

Unit of Power

When referring to our facilities' manufacturing capacity, 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").

Discontinued Operations

In connection with our acquisition of SunRay Malta Holdings Limited ("SunRay") on March 26, 2010, we acquired a SunRay 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 an asset of our Company is classified as held-for-sale, we are required to present 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 the three and nine months ended October 3, 2010 are classified as "Income from discontinued operations, net of taxes" in our Condensed Consolidated Statements of Operations. Unless otherwise stated, the discussion below pertains to our continuing operations. See Note 3 of Notes to our Condensed Consolidated Financial Statements.

Business Segments Overview

On January 25, 2010, we announced that we planned to establish a profit and loss organizational structure to better align our sales, construction, engineering and customer service teams based on end-customer segments rather than sales channels. In the second quarter of fiscal 2010, we changed our segment reporting from our Components Segment and Systems Segment to our Utility and Power Plants ("UPP") Segment and Residential and Commercial ("R&C") Segment. Historically, Components Segment sales were generally solar cells and solar panels sold to a third-party dealer or original equipment manufacturer ("OEM") who would re-sell the product to the eventual customer, while Systems Segment sales were generally complete turn-ke y offerings sold directly to the end customer. Under the new segmentation, 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. The UPP Segment also makes components sales, which includes large volume sales of solar panels and mounting systems to third parties, often on a multi-year, firm commitment basis, and is a reflection of the growing demand of our utility and other large-scale industrial solar equipment customers. 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 installing rooftop and ground-mounted solar systems for the commercial and public sectors. Our President and Chief Ex ecutive 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 these two segments.

Restatement of Previously Issued Condensed Consolidated Financial Statements

On November 16, 2009, our Company announced that its Audit Committee commenced an independent investigation into certain accounting and financial reporting matters at our Philippines operations (&l dquo;SPML"). The Audit Committee retained independent counsel, forensic accountants and other experts to assist it in conducting the investigation.

As a result of the investigation, the Audit Committee concluded that certain unsubstantiated accounting entries were

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made at the direction of the Philippines-based finance personnel in order to report results for manufacturing operations that would be consistent with internal expense projections. The entries generally resulted in an understatement of our Company's cost of goods sold (referred to as "Cost of revenue" in our Condensed Consolidated Statements of Operations). The Audit Committee concluded that the efforts were not directed at achieving our Company's overall financial results or financial analysts' projections of our Company's financial results. The Audit Committee also determined that these accounting issues were confined to the accounting function in the Philippines. Finally, the Audit Committee concluded that executive management neither directed nor encouraged, nor was aware of, these activities and was not provided with accurate information concerning the unsubstantiated entr ies. In addition to the unsubstantiated entries, during the Audit Committee investigation various accounting errors were discovered by the investigation and by management.

The nature and effect of the restatements resulting from the Audit Committee's independent investigation, including the impact to the previously issued interim condensed consolidated financial statements, were provided in our Company's Annual Report on Form 10-K for the year ended January 3, 2010. Prior year reports on Form 10-Q were restated and filed on May 3, 2010 by submission of Forms 10-Q/A. The amounts presented in this Form 10-Q reflect the restatements filed in these amendments. For additional information regarding our Company's disclosure controls and procedures see Part I - "Item 4: Controls and Procedures" in our Company's Quarterly Report on Form 10-Q for the quarter ended October 3, 2010.

Critical Accounting Policies and Estimates

For a description of the critical accounting policies that affect our more significant judgments and estimates used in the preparation of our Condensed Consolidated Financial Statements, refer to our Annual Report on Form 10-K for the year ended January 3, 2010 filed with the Securities and Exchange Commission ("SEC").

Recently Adopted Accounting Guidance and Issued Accounting Guidance Not Yet Adopted

For a description of accounting changes and issued accounting guidance not yet adopted, including the expected dates of adoption and estimated effects, if any, in our Condensed Consolidated Financial Statements, see Note 1 of Notes to our Condensed Consolidated Financial Statements.

Results of Operations for the Three and Nine Months Ended October 3, 2010 and September 27, 2009

Revenue

	Three Months Ended		Nine Months Ended	
(In thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Utility and power plants	$ 257,803	$ 195,117	$ 521,896	$ 428,668
Residential and commercial	292,842	270,244	760,261	547,677
Total revenue	$ 550,645	$ 465,361	$ 1,282,157	$ 976,345

Total Revenue: During the three and nine months ended October 3, 2010, total revenue of $550.6 million and $1,282.2 million, respectively, represented an increase of 18% and 31%, respectively, from total revenue reported in each of the comparable periods of fiscal 2009. The increase in total revenue during the three and nine mon ths ended October 3, 2010 compared to the same periods in fiscal 2009 is attributable to revenue related to large scale projects completed or under construction and growing demand for our solar power products in the residential and commercial markets.

Sales outside the United States represented 68% of total revenue for each of the three and nine months ended October 3, 2010, as compared to 68% and 54% of total revenue for the three and nine months ended September 27, 2009, respectively. The shift in revenue by geography in the nine months ended October 3, 201 0 as compared to revenue reported in the comparable period of fiscal 2009 is due to multiple large scale projects completed or under construction in Italy during the three and nine months ended October 3, 2010.

Concentrations: We had two and zero customers that accounted for 10 percent or more of total revenue in the three and nine months ended October 3, 2010, respectively. We had one customer that accounted for 10 percent or more of total revenue in each of the three and nine months ended September 27, 2009.

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(As a percentage of total revenue)		Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Significant Customer:	**Business Segment**				
Etrion Corporation ("Etrion")	Utility and power plants	12%	*	*	*
Veronagest SpA	Utility and power plants	10%	*	*	*
SunRay	Utility and power plants	**	15%	**	*
Florida Power & Light Company ("FPL")	Utility and power plants	*	*	*	14%

* *denotes less than 10% during the period*

** *SunRay became a wholly-owned subsidiary of our Company on March 26, 2010*

***UPP Revenue:** UPP revenue for the three and nine months ended October 3, 2010 was $257.8 million and $521.9 million, respectively, which accounted for 47% and 41%, respectively, of total revenue. UPP revenue for the three and nine months ended September 27, 2009 was $195.1 million and $428.7 million, respectively, which accounted for 42% and 44%, respectively, of total revenue. During the three and nine months ended October 3 , 2010, UPP revenue increased 32% and 22%, respectively, as compared to revenue reported in each of the comparable periods of fiscal 2009 primarily due to revenue related to large scale projects completed or under construction in Italy.*

In the third quarter of fiscal 2010, our UPP Segment began providing solar technology to a customer under a large five-year supply contract. In addition, our UPP Segment com pleted the sale of an 8 MWac solar power plant in Montalto di Castro, Italy, to Etrion, as well as recognized revenue under the percentage-of-completion method for seven solar power plants totaling 16.5 MWac in the Sicily region of Italy being constructed for Veronagest SpA and a 17 MWac solar power plant being constructed in Colorado for another customer.

In the third quarter of fiscal 2009, our UPP Segment recognized revenue from the ongoing construction of a 20 MWac solar power plant for SunRay in Montalto di Castro, Italy prior to our acquisition of that company. In addition, our UPP Segment completed the construction of a 25 MWac solar power plant for FPL in Desoto County, Florida and began the construction of a 10 MWac solar power plant for FPL at the Kennedy Space Center in Flori da.

Revenue in our UPP Segment is susceptible to large fluctuations from quarter to quarter. Our UPP Segment is dependent on large scale projects and often a single project can account for a material portion of total revenue in a given quarter. In some cases, a delayed sale of a project could require us to recognize a gain on the sale of assets instead of recognizing revenue.
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 result in our deferral of revenue recognition during co nstruction, even if a sale was consummated, until the buyer's initial investment payment is received, at which time revenue would be recognized on a percentage-of-completion basis as work is completed.

***R&C Revenue:** R&C revenue for the three and nine months ended October 3, 2010 was $292.8 million and $760.3 million, respectively, or 53% and 59%, respectively, of total revenue. R&C revenue for the three and nine months ended September 27, 2009 was $270.2 million and $547.7 million, respectively, or 58% and 56%, respectively, of total revenue. During the three and nine months ended October 3, 2010, R&C revenue increased 8% and 39%, respectively, as compared to revenue reported in each of the comparable periods of fiscal 2009 primarily due to growing demand for our solar power products in the residential and commercial markets.*

During the three and nine months ended October 3, 2010, R&C revenue was primary driven by demand in Germany, Italy and the United States, particularly in California and New Jersey, due to federal, state and local government incentives and strong demand in the residential and small commercial roof-top markets through our third-party global dealer network in both Europe and the United States. In addition, the R&C Segment began construction on several large commercial projects in New Jersey.

During the three and nine months ended September 27, 2009, R&C revenue was primary driven by demand in Germany, Italy and the United States, particularly in California, due to f ederal, state and local government incentives and strong demand in the residential and small commercial roof-top markets through our third-party global dealer network in both Europe and the United States. In addition, the R&C Segment began the construction of an 8 MWac solar power plant in Chicago, Illinois.

Cost of Revenue

Details to cost of revenue by segment:

	Three Months Ended					
	UPP		**R&C**		**Consolidated**	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Amortization of other intangible assets	$ 946	$ 683	$ 1,745	$ 2,119	$ 2,691	$ 2,802
Stock-based compensation	2,442	1,530	1,941	2,772	4,383	4,302
Non-cash interest expense	293	1 30	270	235	563	365
Materials and other cost of revenue	208,845	140,656	221,578	217,406	430,423	358,062
Total cost of revenue	$ 212,526	$ 142,999	$ 225,534	$ 222,532	$ 438,060	$ 365,531
Total cost of revenue as a percentage of revenue	82%	73%	77%	82%	80%	79%
Total gross margin percentage	18%	27%	23%	18%	20%	21%

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	Nine Months Ended					
	UPP		**R&C**		**Consolidated**	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Amortization of other intangible assets	$ 2,409	$ 2,049	$ 5,994	$ 6,341	$ 8,403	$ 8,390
Stock-based compensation	5,265	4,090	5,759	5,665	11,024	9,755
Non-cash interest expense	969	974	1,165	1,131	2,134	2,105
Materials and other cost of revenue	412,535	346,498	575,882	436,854	988,417	783,352
Total cost of revenue	$ 421,178	$ 353,611	$ 588,800	$ 449,991	$ 1,009,978	$ 803,602
Total cost of revenue as a percentage of revenue	81%	82%	77%	82%	79%	82%
Total gross margin percentage	19%	18%	23%	18%	21%	18%

Total Cost of Revenue includes: (i) cost of raw materials to manufacture solar cells and a ssemble solar panels; (ii) labor associated with the manufacturing of solar cells and solar panels; (iii) manufacturing overhead which includes plant and equipment depreciation as well as equipment maintenance and facility-related expenses; (iv) provisions for warranty reserves; (v) balance of system costs which includes mounting systems and inverters; and (vi) other project costs, including project management, engineering, development and construction costs.

In the three and nine months ended October& nbsp;3, 2010, our two solar cell manufacturing facilities produced 152.1 MWdc and 425.4 MWdc, respectively. During the three and nine months ended September 27, 2009, our two solar cell manufacturing facilities produced 109.9 MWdc and 267.2 MWdc, respectively. Our manufacturing cost per watt decreased in the three and nine months ended October 3, 2010 as compared to the same periods of fiscal 2009 due to lower material cost and better material utilization as well as higher volume, resulting in increased economies of scale in production.

During the three and nine months ended October 3, 2010, total cost of revenue was $438.1 million and $1,010.0 million, respectively, which represented increases of 20% and 26%, respectively, compared to the total cost of revenue reported in the comparable periods of fiscal 2009. The increase in total cost of revenue corresponds with the increase of 18% and 31% in total revenue during the three and nine months ended October 3, 2010, respectively, compared to the same periods in fiscal 2009. As a percentage of total revenue, total cost of revenue increased to 80% in the three months ended October 3, 2010 as compared to 79% in the three months ended September 27, 2009 and decreased to 79% in the nine months ended October 3, 2010 as

compared to 82% in the nine months ended September 27, 2009. The increase in total cost of revenue as a percentage of total revenue in the three months ended October 3, 2010 as compared to the three months ended September 27, 2009 is primarily due to project costs related to systems being built in Italy and Colorado, partially offset by reduced charges for inventory write-downs related to declining average selling prices of third-party solar panels of $0.3 million and $3.4 million, respectively. The decrease in total cost of revenue as a percentage of total revenue in the nine months ended October 3, 2010 as compared to the nine months ended September 27, 2009 is reflective of: (i) reduced charges for inventory write-downs related to declining average selling prices of third-party solar panels of $0.7 million and $8.2 million, respectively; (ii) the reduction in large commercial balance of systems costs; and (iii) improvements attributable to continued manufacturing scale and reductions in our man ufacturing cost per watt described above. Inventory written-down in fiscal 2009 that were sold in the first three quarters of fiscal 2010 improved our gross margin by an immaterial amount in the three and nine months ended October 3, 2010.

UPP Gross Margin: Gross margin was $45.3 million and $100.7 million for the three and nine months ended October 3, 2010, respectively, or 18% and 19%, respectively, of UPP revenue. Gross margin was $52.1 million and $75.1 million for the three and nine months ended September 27, 2009, respectively, or 27% and 18%, respectively, of UPP revenue. UPP gross margin for the three months ended October 3, 2010 primarily decreased due to a smaller proportion of components sales, which typically have a higher gross margin percentage than our utility projects, combined with lower gross margins on certain international EPC projects that were recognized during the period. UPP gross margin for the nine months ended October 3, 2010 primarily increased due to a greater proportion of components sales in the first half of fiscal 2010 which typically have a higher gross margin percentage than our utility projects as well as reduced charges for inventory write-downs and subsequent sales of aged third-party solar panel s in the three and nine months ended October 3, 2010 as compared to the same periods in fiscal 2009.

R&C Gross Margin: Gross margin was $67.3 million and $171.5 million for the three and nine months ended October 3, 2010, respectively, or 23% each of R&C revenue. Gross margin was $47.7 million and $97.7 million for the three and nine months ended September 27, 2009, respectively, or 18% each of R&C revenue. Gross margin increased primarily due to: (i) the reduction in large commercial balance of systems costs; and (ii) improvements attributable to continued manufacturing scale and reductions in our manufacturing cost per watt described above, partially offset by the reduction in average selling prices of our solar power products.

Research and Development

	Three Months Ended		Nine Months Ended	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Stock-based compensation	$ 1,886	$ 1,736	$ 5,822	$ 4,649
Other research and development	11,496	6,514	29,173	18,418
Total research and development	$ 13,382	$ 8,250	$ 34,995	$ 23,067
Total research and development as a percentage of revenue	2%	2%	3%	2%

During the three and nine months ended October 3, 2010, research and development expense was $13.4 million and $35.0 million, respectively, which represents increases of 62% and 52%, respectively, from research and development expense reported in the comparable periods of fiscal 2009. The increase in spending during the three and nine months ended October 3, 2010 as compared to the same periods in fiscal 2009< /font> resulted primarily from: (i) personnel costs as a result of an increase in headcount; (ii) costs related to the improvement of our current generation solar cell manufacturing technology, development of our third generation of solar cells, development of next generation solar panels, development of next generation trackers and rooftop systems, and development of systems performance monitoring products; and (iii) less grants and cost reimbursements received from various government entities in the United States of $1.3 million and $5.2 million in the three and nine< font style="font-family:inherit;font-size:10pt;"> months ended October 3, 2010, respectively, compared to $3.8 million and $6.1 million in the three and nine months ended September 27, 2009, respectively.

In fiscal 2007 through the third quarter of fiscal 2010 we benefited from a Solar America Initiative research and development agreement with the United States Department of Energy in which we have been awarded $24.1 million through October 3, 2010. Payments received under this contract offset our research and development expense by $5.2 million in the nine months ended October 3, 2010 as compared to $8.9 million, $7.0 million and $3.0 million in fiscal 2009, 2008 and 2007, respectively. The award was fully funded by the end of the third quarter of fiscal 2010.

Sales, General and Administrative

9,396

(Dollars in thousands)	Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Amortization of other intangible assets	$8,887	$ 1,344	$ 19,636	$ 3,906
Stock-based compensation	7,036	21,218	19,800	
Amortization of promissory notes	6,022	—	8,941	—
Other sales, general and administrative	66,710	36,952	183,876	106,805
Total sales, general and administrative	$ 91,015	$ 45,332	$ 233,671	$ 130,511
Total sales, general and administrative as a percentage of revenue	17%	10%	18%	13%

During the three and nine months ended October 3, 2010, sales, general and administrative ("SG&A") expense was $91.0 million and $233.7 million, respectively, which represents increases of 101% and 79%, respectively, from SG&A expense reported in the comparable periods of fi scal 2009. The increase in SG&A expense during the three and nine months ended October 3, 2010 as compared to the same periods in fiscal 2009 resulted primarily from: (i) SunRay's operating and development expenses being consolidated into our financial results from March 26, 2010 through October 3, 2010; (ii) higher amortization of other intangible assets related to project assets acquired from SunRay; (iii) SunRay acquisition-related costs and integration-related costs such as legal, accounting, valuation and other professional services; (iv) sales and marketing spending to expand our third-party global dealer network and global branding initiatives; and (v) $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.

Other Income (Expense), Net

(Dollars in thousands)	Three Months Ended October 3, 2010	Three Months Ended September 27, 2009	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Interest income	$ 742	$ —	$ 1,294	$ 1,949
Total interest income as a percentage of revenue	—%	—%	—%	—%
Non-cash interest expense	$ (5,844)	$ (5,023)	$ (20,041)	$ (14,604)
Other interest expense	(8,924)	(4,969)	(24,977)	(11,422)
Total interest expense	$ (14,768)	$ (9,992)	$ (45,018)	$ (26,026)
Total interest expense as a percentage of revenue	3%	2%	4%	3%
Gain on deconsolidation of consolidated subsidiary	$ 36,849	$ —	$ 36,849	$< /div> —
Total gain on deconsolidation of consolidated subsidiary as a percentage of revenue	7%	—%	3%	—%
Gain on change in equity interest in unconsolidated investee	$ —	$ —	$ 28,348	$ —
Total gain on change in equity interest in unconsolidated investee as a percentage of revenue	—%	—%	2%	—%
Gain (loss) on mark-to-market derivatives	$ (2,967)	$ —	$ 28,885	$ 21,193
Total gain (loss) on mark-to-mark derivatives as a percentage of revenue	1%	—%	2%	2%
Other, net	$ (11,947)	$ 585	$ (28,344)	$ (3,7 65)
Total other, net as a percentage of revenue	2%	—%	2%	—%

Interest income represents interest income earned on our cash, cash equivalents, restricted cash, restricted cash equivalents and available-for-sale securities. The decrease in interest income in the three and nine months ended October 3, 2010 as compared to the same periods in fiscal 2 009 resulted from lower interest rates earned on cash holdings.

Interest expense during the three and nine months ended October 3, 2010 primarily relates to debt under our senior convertible debentures and fees for our outstanding letters of credit with Deutsche Bank AG New York Branch ("Deutsche Bank"). Interest expense during the three and nine months ended September 27, 2009 relates to borrowings under our senior convertible debentures, SunPower Malaysia Manufacturing Sdn. Bhd.'s ("SPMY") facility agreement with the Malaysian Government, the term loan with Union Bank, N.A. ("Union Bank") and customer advance payments. The increase in interest expense of 48% and 73% in the three and nine months ended October 3, 2010, respectively, as compared to the same periods in fiscal 2009 is due to: (i) additional indebtedness related to our $250.0 million in princip al amount of 4.50% senior cash convertible debentures ("4.50% debentures") issued in April 2010; and (ii) fees for our outstanding letters of credit with Deutsche Bank.

In June 2009, the Financial Accounting Standards Board ("FASB") issued accounting guidance that changed how companies account for share lending arrangements that were executed in connection with convertible debt offerings or other financings. The new accounting guidance requires all such share lending arrangements to be valued and amortized as interest expense in the same manner as debt issuance costs. As a result of the new accounting guidance, existing share lending arrangements relating to our class A common stock are required to be measured at fair value and amor tized as interest expense in our Condensed Consolidated Financial Statements. In addition, in the event that counterparty default under the share lending arrangement becomes probable, we are required to recognize an expense in our Condensed Consolidated Statement of Operations equal to the then fair value of the unreturned loaned shares, net of any probable recoveries. We adopted the new accounting guidance effective January 4, 2010, the start of our fiscal year, and applied it retrospectively to all prior periods as required by the guidance.

We have two historical share lending arrangements subject to the new guidance. In connection with the issuance of our 1.25% senior convertible debentures ("1.25% debentures") and 0.75% senio r convertible debentures ("0.75% debentures"), we loaned 2.9 million shares of our class A common stock to Lehman Brothers International (Europe) Limited ("LBIE") and 1.8 million shares of our class A common stock to Credit Suisse International ("CSI") under share lending arrangements. Application of the new accounting guidance resulted in higher non-cash amortization of imputed share lending costs in the current and prior periods, as well as a significant non-cash loss resulting from Lehman Brothers Holding Inc. ("Lehman") filing of 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 our class A common stock loaned and unreturned by LBIE is $213.4 million, which was expensed retrospectively in the third quarter of fiscal 2008. See Notes 1 and 10 of Notes to our Condensed C onsolidated Financial Statements.

On July 5, 2010, we closed our joint venture transaction with AU Optronics Singapore Pte. Ltd. ("AUO"). Under the joint venture agreement our equity interest in SPMY, formerly a wholly-owned subsidiary, was reduced to 50% and the entity was renamed AUO SunPower Sdn. Bhd. ("AUOSP"). As a result of the shared power arrangement we deconsolidated AUOSP and account for our direct investment under the equity method of accounting. 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 Condensed Consolidated Statement of Operations. For additional details see Note 9 of Notes to our Consolidated Financial Statements.

On June 30, 2010, Woongjin Energy Co., Ltd. ("Woongjin Energy") completed its initial public offering ("IPO") and the sale of 15.9 million new shares of common stock. We did not participate in this common stock issuance by Woongjin Energy. As a result of the new common stock issuance by Woongjin Energy in its IPO, our percentage equity interest in Woongjin Energy decreased from 42.1% to 31.3% of its issued and outstanding shares of common stock. In connection with the IPO, we recognized a non-cash gain of $28.3 million in the second quarter of fiscal 2010 in our Condensed Consolidated Statement of Operations as a result of our equity interest in Woongjin Energy being diluted. For additional details see Note 9 of Notes to our Consolidated Financial Statements.

The $3.0 million net loss and $28.9 million net gain on mark-to-market derivatives during the three and nine< /font> months ended October 3, 2010, respectively, relates to the change in fair value of the following derivative instruments associated with the 4.50% debentures: (i) the embedded cash conversion option; (ii) over-allotment option; (iii) bond hedge transaction; and (iv) warrant transaction. The changes in fair value of these derivatives are reported in our Condensed Consolidated Statement 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. The bond hedge and warrant transactions are meant to reduce our exposure to potential cash payments associated with the embedded cash conversion option. For additional details see Note 10 of Notes to our Consolidated Financial Statements.

The $21.2 million non-cash gain on mark-to-market derivatives during the nine months ended September 27, 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. The Purchased Options, which are indexed to our class A 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. For additional details see Note 10 of Notes to our Consolidated Financial Statements.*

The following table summarizes the components of other, net:

	Three Months Ended		Nine Months Ended	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October&n bsp;3, 2010**	**September 27, 2009**
Gain (loss) on derivatives and foreign exchange	$ (12,316)	$ 696	$ (29,930)	$ (1,852)
Gain on sale (impairment) of investments	—	(190)	1,572	(1,997)
Other income (expense), net	369	79	14	84
Total other, net	$ (11,94 7)	$ 585	$ (28,344)	$ (3,765)

Other, net was comprised of expenses totaling $11.9 million and $28.3 million during the three and nine months ended October 3, 2010, respectively, consisting primarily of: (i) losses totaling $11.3 million and $20.9 million, respectively, from expensing the time value of option contracts and forward points on forward exchange contracts; and (ii) losses totaling $1.0 million and $9.0 million, respectively, on foreign currency derivatives and foreign exchange largely due to the volatility in the current markets. These expenses during the three and nine mont hs ended October 3, 2010 were partially offset by a $1.6 million gain on distributions from the Reserve Primary Fund in the first quarter of fiscal 2010.

Other, net was comprised of $0.6 million of income and $3.8 million of expenses during the three and nine months ended September 27, 2009, respectively, consisting primarily of $0.7 million of gains and $1.9 million of losses, respectively, on foreign currency derivatives and changes in foreign exchange rates largely due to the volatility in the currency markets as well as impairment charges of $0.2 million and $2.0 million, respectively, for certain money market funds and auction rate securities.

Income Taxes

	Three Months Ended		Nine Months Ended	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Benefit from (provision for) income taxes	$ (3,376)	< font style="font-family:inherit;font-size:10pt;"> $ (19,962)	$ (19,493)	$ 4,457
Total benefit from (provision for) income taxes as a percentage of revenue	1%	4%	2%	—%

In the three and nine months ended October 3, 2010, our income tax provision of $3.4 million and $19.5 million, respectively, on income from continuing operations before income taxes and equity in earnings of unconsolidated investees of $16.1 million and $25.5 million, respectively, was primarily due to domestic and foreign income in certain jurisdictions, nondeductible amortization of purchased 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 the three and nine months ended September 27, 2009, our income tax provision of $20.0 million and income tax benefit of $4.5 million, respectively, on income of $36.8 million and $12.5 million before income taxes and equity in earnings of unconsolidated investees, respectively, was primarily attributable to domestic and foreign income taxes in certain jurisdictions where our operations are profitable, net of nondeductible amortization of purchased other intangible assets, discrete stock option deductions and the discrete non-cash gain on Purchased Options of $21.2 million.

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 against deferre d tax assets when management cannot conclude that it is more likely *than not that a portion or all of the deferred assets are recoverable. Based on the absence of sufficient positive objective evidence, management is unable to assert that it is more likely than not that we will generate sufficient taxable income to realize these remaining net deferred tax assets. Should we continue to project certain lev els of profitability, we may be in a position to reverse the valuation allowance in the future.*

Equity in earnings of unconsolidated investees

	Three Months Ended		Nine Months Ended	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Equity in earnings of unconsolidated investees	$ 5,825	$ 2,627	$ 10,973	$ 7,005
As a percentage of revenue	1%	1%	1%	1%

During the three and nine months ended October 3, 2010, our equity in earnings of unconsolidated investees were gains of $5.8 million and $11.0 million, respectively, as compared to $2.6 million and $7.0 million in the three and nine months ended September 27, 2009, respectively. Our share of Woongjin Energy's income totaled $5.7 million and $10.5 million in the three and nine months ended October 3, 2010, respectively, as compared to $2.6 million and $7.1 million in the three and nin e months ended September 27, 2009, respectively. Our share of First Philec Solar Corporation's ("First Philec Solar") income totaled $0.1 million and $0.4 million in the three and nine months ended October 3, 2010, respectively, as compared to income of zero and losses totaling $0.1 million in the three and nine months ended September 27, 2009, respectively, primarily due to increases in production since First Philec Solar became operational in the second quarter of fiscal 2008.

On July 5, 201 0, the first day of the third quarter in fiscal 2010, we deconsolidated our investment in AUOSP and account for such investment using the equity method of accounting. We will account for our share of AUOSP's net income or loss for the three months ended October 3, 2010 during the fourth quarter of fiscal 2010 due to a quarterly lag in reporting. For additional details see Note 9 of Notes to our Consolidated Financial Statements.

Income from discontinued operations, net of taxes

	Three Months Ended		Nine Months Ended	
(Dollars in thousands)	**October 3, 2010**	**September 27, 2009**	**October 3, 2010**	**September 27, 2009**
Income from discontinued operations, net of taxes	$ 1,570	$ —	$ 9,466	$ —
As a percentage of revenue	—%	—%	1%	—%

In connection with our acquisition of SunRay on March 26, 2010, we acquired a SunRay project comp any, Cassiopea, operating a previously completed 20 MWac solar power plant in Montalto di Castro, Italy. In the period in which an asset of our Company is classified as held-for-sale, we are required to present the related assets, liabilities and results of operations associated with that asset as discontinued operations. In the third quarter of fiscal 2010, we recognized a gain of $7.9 million for the sale of Cassiopea on August 5, 2010. Cassiopea's results of operations for the three and nine months ended October 3, 2010 were classified as "Income from disc ontinued operations, net of taxes" in our Condensed Consolidated Statements of Operations. Cassiopea is the first of two phases of the solar power park being built in Montalto di Castro, Italy. Future delayed dispositions of projects could require us to recognize similar gains on the sale of assets instead of recognizing revenue. For additional details see Note 3 of Notes to our Consolidated Financial Statements.

Liquidity and Capital Resources

Cash Flows

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

(In thousands)	Nine Months Ended October 3, 2010	Nine Months Ended September 27, 2009
Net cash provided by (used in) operating activities of continuing operations	$ (73,890)	$ 37,227
Net cash used in investing activities of continuing operations	(322,469)	(257,284)
Net cash provided by financing activities of continuing operations	21,933	484,390

Operating Activities

Net cash used in operating activities of continuing operations of $73.9 million in the nine months ended October 3, 2010 was primarily the result of: (i) increases in inventories and project assets of $84.2 million and $146.3 million, respectively, for construction of future and current projects in Italy; (ii) increases in costs and estimated earnings in excess of billings of $80.7 million related to contractual timing of system project billings; as well as (iii) other changes in operating assets and liabilities of $67.6 million, partially offset by an increase in accounts payable and other accrued liabilities of $219.1 million. In addition, net cash used in operating activities of continuing operations resulted from a $1.6 million gain on money market fund distributions a nd non-cash income of $105.1 million related to our equity share in earnings of joint ventures, gain on deconsolidation of AUOSP, gain on change in equity interest in Woongjin Energy and a net gain on mark-to-market derivatives, offset by income from continuing operations of $17.0 million plus non-cash charges totaling $175.5 million for depreciation, amortization, stock-based compensation and non-cash interest expense.

Net cash provided by operating activities of $37.2 million in the nine months ended September 27, 2009 reflects our focus on working capital management and was primarily the result of net income of $24.0 million, plus non-cash charges totaling $128.0 million for depreciation, amortization, impairment of investments, stock-based compensation and non-cash interest expense, less non-cash income of $28.2 million related to a gain on Purchased Options and our equity share in earnings of joint ventures, as well as decreases in advances to suppliers of $25.2 million and inventories of $27.8 million due to improved inventory turns under management's demand-driven manufacturing model. The increase was partially offset by an increase in accounts receivable of $43.3 million and costs and estimated earnings in excess of billings of $42.0 million related to contractual timing of system project billings, as well as other changes in operating assets and liabilities of $54.2 million.

Investing Activities

Net cash used in investing activities of continuing operations in the nine months ended October 3, 2010 was $322.5 million, of which: (i) $104.6 million relates to capital expenditures primarily associated with the continued construction of our third solar cell manufacturing facility ("FAB3") in Malaysia prior to deconsolidation on July 5, 2010; (ii) $272.7 million in cash was paid for the acquisition of SunRay, net of cash acquired; (iii) $12.9 million relates to cash of AUOSP that was deconsolidated on July 5, 2010; and (iv) $3.8 million relates to cash paid for investments in AUOSP and non-public companies. Cash used in investing activities was partially offset by: (i) $64.7 million of decreases in restricted cash and cash equivalents primarily due to the deconsolidation of AUOSP and the repayment of the Piraeus Bank loan; (ii) $5.3 million in proceeds received from the sale of equipment to a third-party subcontractor ; and (iii) $1.6 million on money market fund distributions.

Net cash used in investing activities during the nine months ended September 27, 2009 was $257.3 million, of which: (i) $149.6 million relates to capital expenditures primarily associated with the completion of our second solar cell manufacturing facility (& ldquo;FAB2") in the Philippines and the continued construction of FAB3 in Malaysia; (ii) $145.6 million relates to increases in restricted cash and cash equivalents for the drawdown under the facility agreement with the Malaysian government; and (iii) $1.5 million relates to cash paid for investments in a non-public company. Cash used in investing activities was partially offset by $29.5 million in proceeds received from the sales or maturities of available-for-sale securities and $9.9 million in proceeds received from the sale of equipment to a third-party subcontractor.

Financing Activities

Net cash provided by financing activities of continuing operations in the nine months ended October 3, 2010 was $21.9 million and 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) $0.8 million in excess tax benefits from stock-based award activity; and (iii) $0.7 million from stock option exercises. Cash received in the nine months ended October 3, 2010 was partially offset by: (i) cash paid of $30.0 million to Union Bank to terminate our $30.0 million term loan; (ii) repayment of $33.6 million to Piraeus Bank to terminate our current account overdraft agreement in Greece; (iii) repurchase of $143.8 million in principal amount of our 0.75% debentures; and (iv) $2.5 million for treasury stock purchases that were used to pay withholding taxes on vested restricted stock.

Net cash provided by financing activities during the nine months ended September 27, 2009 reflects cash received of: (i) $218.8 million in net proceeds from our public offering of 10.35 million shares of our 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, af ter reflecting the payment of the net cost of the call spread overlay; (iii) Malaysian Ringgit 375.0 million (approximately $107.9 million based on the exchange rate as of September 27, 2009) from the Malaysian Government under our facility agreement; (iv) $29.8 million in net proceeds from Union Bank under our $30.0 million term loan; (v) $7.1 million in excess tax benefits from stock-based award activity; and (vi) $1.4 million from stock option exercises. Cash received during the nine months ended September 27, 2009 was partially offset by cash paid of $75.6 million t o repurchase approximately $81.1 million in principal amount of our 0.75% debentures and $3.7 million for treasury stock purchases that were used to pay withholding taxes on vested restricted stock.

Debt and Credit Sources

Convertible Debentures

On April 1, 2010, we issued $220.0 million in principal amount of our 4.50% debentures and received net proceeds of $214.9 million, before payment of the net cost of the bond hedge and warrant transactions of $12.1 million. On April 5, 2010, the initial purchasers of the 4.50% debentures exercised the $30.0 million over-allotment option in full and we received net proceeds of $29.3 million, before payment of the net cost of the bond hedge and warrant transactions of $1.6 million. Interest on the 4.50% debentures is payable on March 15 and September 15 of each year, which commenced September 15, 2010. The 4.50% debentures mature on March 15, 2015. The 4.50% debentures are convertible only into cash, and not into shares of our class A common stock (or any other securities). Prior to December 15, 2014, the 4.50% debentures are conver tible 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 class A 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 class A common stock over the applicable observation period. The 4.50% debentures will not be convertible, in accordance with the provisions of the debenture agreement, until the first quarter of fiscal 2011. 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 certa in obligations there-under, Wells Fargo Bank, N.A. ("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. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

In May 2009, we issued $230.0 million in principal amount of our 4.75% debentures and received net proceeds of $225.0 million, before payment of the net cost of the call spread overlay of $26.3 million. Interest on the 4.75% debentures is payable on April 15 and October 15 of each year, which commenced October 15, 2009. Holders of the 4.75% debentures are able to exercise their right to convert the debentures at any time into shares of our class A 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 there-under, 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. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

In February 2007, we issued $200.0 million in principal amount of our 1.25% debentures and received net proceeds of $194.0 million. In fiscal 2008, we received notices for the conversion of $1.4 million in principal amount of the 1.25% debentures which we settled for $1.2 million in cash and 1,000 shares of class A common stock. 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 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. For additional details see Note 10 of Notes to our Condensed Consolidated

Financial Statements.

In July 2007, we issued $225.0 million in principal amount of our 0.75% debentures and received net proceeds of $220.1 million. In fiscal 2009, we repurchased $81.1 million in principal amount of the 0.75% debentures for $75.6 million in cash. In the third quarter of fiscal 2010, we 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 October 3, 2010, 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 a nd 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 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. The 0.75% debentures were classified as long-term liabilities and short-term liabilities in our Condensed Consolidated Balance Sheets as of October 3, 2010 and January 3, 2010, respectively, due to the ability of the holders to require us to repurchase their 0.75% debentures commencing on August 1, 2015 and August 2, 2010, respectively. 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. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

Debt Facility Agreement with the Malaysian Government

On December 18, 2008, AUOSP, then our wholly-owned subsidiary, entered into a facility agreement with the Malaysian Government. As of January 3, 2010, AUOSP had outstanding Malaysian Ringgit 750.0 million ($219.0 million based on the exchange rates as of January 3, 2010) under the facility agreement to finance the construction of FAB3 in Malaysia. On July 5, 2010, the joint venture closed between our Company, through SunPower Technology, Ltd. ("SPTL"), an indirect subsidiary of our Company, AUOSP, AUO, and AU Optronics Corporation, the ultimate parent company of AUO ("AUO Taiwan"). Under the terms of the joint venture agreement, our Company, through SPTL, and AUO each own 50% of the AUOSP joint venture. AUOSP retains the existing debt facility agreement and the outstanding balance was deconsolidated by our Company on July 5, 2010 d ue to the shared power arrangement. We do not guarantee or collateralize the debt facility held by AUOSP. For additional details see Note 9 of Notes to our Condensed Consolidated Financial Statements.

Mortgage Loan Agreement with International Finance Corporation ("IFC")

On May 6, 2010, SPML and SPML Land, Inc. ("SPML Land"), both subsidiaries of our Company, entered into a mortgage loan agreement with IFC. Under the loan agreement, SPML may borrow up to $75.0 mi llion 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. As of October 3, 2010, SPML had not borrowed any funds under the mortgage loan agreement.
On November 12, 2010, SPML borrowed $50 million under the mortgage loan agreement. A total of $25 million remains available for borrowing under the mortgage loan agreement. For additional details see Notes 10 and 17 of Notes to our Condensed Consolidated Financial Statements.

Term Loan with Union Bank

On April 17, 2009, we entered into a loan agreement with Union Bank under which we borrowed $30.0 million for a three year term at an interest rate of LIBOR plus 2%. As of January 3, 2010, the outstanding loan balan ce was $30.0 million of which $11.3 million and $18.7 million had been classified as "current portion of long-term debt" and "Long-term debt," respectively, in our Condensed Consolidated Balance Sheet, based on projected quarterly installments commencing June 30, 2010. On April 9, 2010 we repaid all principal and interest outstanding under the term loan with Union Bank. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

Revolving Credit Facility with Union Bank

On October 29, 2010, we entered into a revolving credit facility agreement with Union Bank. Until the maturity date of October 28, 2011, we may borrow up to $70.0 million under the revolving credit facility. Amounts borrowed may be repaid and reborrowed until October 28, 2011. The revolving credit facility may be increased up to $100.0 million at our option and upon receipt of additional commitments from lenders. On October 29, 2010, we drew down $70.0 million under the revolving credit *facility.*

The amount available for borrowing under the revolving credit facility is further capped at 30% of the market value of our shares in Woongjin Energy ("Borrowing Base"). If at any time the amount outstanding under the revolving credit facility is greater than the Borrowing Base, we must repay such difference within two business days. In addition, upon a material adverse change which, in the sole judgment of Union Bank, would adversely affect the ability of Union Bank to promptly sell the Woongjin Energy shares, including but not limited to any unplanned closure of the Korean Stock Exchange that lasts for more than one tr ading session, we must repay all outstanding amounts under the revolving credit facility within five business days, and the revolving credit facility will be terminated. As security under the revolving credit facility, we pledged our holding of 19.4 million shares of common stock of Woongjin Energy to Union Bank.

We are 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. For addition al details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

Letter of Credit Facility with Deutsche Bank

On April 12, 2010, we entered into a letter of credit facility agreement with Deutsche Bank, as issuing bank and as administrative agent, and the financial institutions parties thereto from time to time. The letter of credit facility provides for the issuance, upon our request, of letters of credit by the issuing bank in order to support our o bligations, in an aggregate amount not to exceed $350.0 million (or up to $400.0 million upon the agreement of the parties). Each letter of credit issued under the letter of credit facility must have an expiration date no later than the earlier of the second anniversary of the issuance of that letter of credit and April 12, 2013, except that: (i) a letter of credit may provide for automatic renewal in one-year periods, not to extend later than April 12, 2013; and (ii) up to $100.0 million in aggregate amount of letters of credit, if cash-collateralized, may have expiration dates no later than the fifth anniversary of the closing of the letter of credit facility. For outstanding letters of credit under the letter of credit facility we pay a fee of 0.50% plus any applicable issuances fees charged by its issuing and correspondent banks. We also pay a commitment fee of 0.20% on the unused portion of the facility. As of Oc tober 3, 2010, letters of credit issued under the letter of credit facility totaled $224.3 million and were collateralized by restricted cash on our Condensed Consolidated Balance Sheet. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

Amended Credit Agreement with Wells Fargo

On April 12, 2010, we entered into an amendment of our credit agreement with Wells Fargo. Under the amended credit agreement, letters of credit outstanding under the collateralized letter of credit facility will remain outstanding through November 29, 2010. On April 26, 2010, the uncollateralized letter of credit subfeature expired and as of October 3, 2010 all outstanding letters of credit on the subfeature had been moved to either the Deutsche Bank letter of credit facility or the Wells Fargo collateralized letter of credit facility. Letters of credit totaling $2.4 million and $150.7 million were issued by Wells Fargo under the collateralized letter of credit facil ity as of October 3, 2010 and January 3, 2010, respectively, and were collateralized by restricted cash on our Condensed Consolidated Balance Sheets. We pay fees of 0.2% to 0.4% depending on maturity for outstanding letters of credit under the collateralized letter of credit facility. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

Commercial Project Financing Agreement with Wells Fargo

On June 29, 2009, we signed a commercial project financing agreement with Wells Fargo to fund up to $100 million of commercial-scale solar system projects through May 31, 2010. Under the financing agreement, we designed and built the systems, and upon completion of each system, sold the systems to Wells Fargo, who in turn, leased back the systems to us. Separately, we entered into PPAs with end customers, who host the systems and buy the electricity directly from us.

We sold two solar system projects to Wells Fargo in the third quarter of fiscal 2010 and two solar system projects to Wells Fargo in the fourth quarter of fiscal 2009. Concurrent with the sale, we entered into agreements to lease the systems back from Wells Fargo over minimum lease terms of 20 years. The deferred profit on the sale of the systems is being recognized over the minimum term of the lease. At the end of the lease term, we have the option to purchase the system at fair value or remove the system. For additional details see Note 8 of Notes to our Condensed Consolidated Financial Statements.

Liquidity

As of October 3, 2010, we had unrestricted cash and cash equivalents of $281.2 million as compared to $615.9 million as of January 3, 2010. The decrease in the balance of our cash and cash equivalents as of October 3, 2010 as compared to the balance as of January 3, 2010 was primarily due to: (i) net cash paid of $272.7 million for the acquisition of SunRay completed on March 26, 2010; (ii) cash paid of $207.4 million in the aggregate to repurchase $143.8 million in principal amount of the 0.75% debentures and to repa y $63.6 million in bank loans in the nine months ended October 3, 2010, partially offset by the receipt of aggregate net proceeds of $230.5 million from the issuance of $250.0 million in principal amount of our 4.50% debentures in April 2010, after deducting the underwriters' discounts and commissions and offering expenses payable by us (including $13.7 million paid as the net cost of the call spread overlay). For additional details refer to the summary of the sources and uses of cash and cash equivalents above.

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, if repatria ted 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, the joint venture closed between our Company, through SPTL, AUOSP, AUO and AUO Taiwan. Under the terms of the joint venture agreement, our Company, through SPTL, and AUO each own 50% of the AUOSP joint venture. Both SPTL and AUO are obligated to provide additional funding to AUOSP in the future. On July 5, 2010, SPTL and AUO each contributed initial funding of Malaysian Ringgit 45.0 million and w ill contribute additional amounts from fiscal 2011 to 2014 amounting to $335 million by each shareholder, 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 million in the aggregate. On November 5, 2010, our Company and AUOSP entered into an agreement 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 as prepayments to the third-party supplier. Prepayments to be paid to us by AUOSP total $100 million, $60 million and $40 million in the fourth quarter of fiscal 2010, fiscal year 2011 and fiscal year 2012, respectively. For additional details see Notes 8 and 9 of Notes to our Condensed Consolidated Financial Statements.

Beginning in the first quarter of fiscal 2011 through the fourth quarter of fiscal 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 class A common stock. The 4.50% debentures are convertible only into cash, and not into shares of our class A common stock (or any other securities). Upon conversion, we will deliver an amount of cash calculated by reference to the price of our class A common stock over the applicable observation period. Concurrent with the issuance of the 4.50% debentures, we entered into privately negotiated convertible debenture hedge transactions (collectively, the "Bond Hedge") and warrant transactions (collectively, the "Warrants" and together with the Bond Hedge, the "CSO2015"), with certain of the initial purchasers of the 4.50% cash convertible debentures or their affiliates. The CSO2015 is meant to reduce our exposure to potential cash payments upon conversion of the 4.50% debentures. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

If the closing price of our class A common stock equaled or exceeded 125% of the initial effective conversion price governing the 1.25% debentures for 20 out of 30 consecutive trading days in the last month of the fiscal quarter, then holders of the 1.25% debentures have the right to convert the debentures into cash and shares of class A common stock any day in the following fiscal quarter. Because the closin g price of our class A common stock on at least 20 of the last 30 trading days during the fiscal quarter ending October 3, 2010 and January 3, 2010 did not equal or exceed $70.94, or 125% of the applicable conversion price for our 1.25% debentures, holders of the 1.25% debentures are unable to exercise their right to convert the debentures, based on the market price conversion trigger, on any day in the first and fourth quarters of fiscal 2010. Accordingly, we classified our 1.25% debentures as long-term in our Condensed Consolidated Balance Sheets as of both October 3, 2010 and January 3, 2010. This test is repeated each fiscal quarter, therefore, if the market price conversion trigger is satisfied in a subsequent quarter, the 1.25% debentures may again be reclassified as short-term. For additional details see Note 10 of Notes to our Condensed Consolidated Financial Statements.

In addition, the holders of our 1.25% debentures would be able to exercise their right to convert the debentures during the five consecutive business days immediately following any five consecutive trading days in which the trading price of our 1.25% debentures is less than 98% of the average closing sale price of a share of class A common stock during the five consecutive trading days, multiplied by the applicable conversion rate.

We expect total capital expenditures, excluding cash paid for the construction of solar power systems, in the range of

$125 million to $150 million in fiscal 2010. Total capital expenditures in the nine months ended October 3, 2010 of $104.6 million primarily relates to the continued construction of FAB3 in Malaysia prior to deconsolidation on July 5, 2010. Capital expenditures anticipated to occur in the fourth quarter of 2010 relate to improvements of our current generation solar cell manufacturing technology and other projects. 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 will often choose to bear the costs of such efforts prior to the final sale to a customer. This involves significant upfront investments of resources (including, for exampl e, large transmission deposits or other payments, which may be non-refundable), 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. The delayed disposition of such projects could have a negative impact on our liquidity.

We believe that our current cash and cash equivalents, cash generated from operations and funds available under our mortgage loan agreement with IFC and our revolving credit facility with Union Bank will be sufficient to meet our working capital and fund our committed capital expenditures over the next 12 months. However, there can be no assurance tha t our liquidity will be adequate over time. Our capital expenditures and use of working capital may be greater than we expect if we decide to accelerate ramping our manufacturing capacity both internally and through capital contributions to joint ventures, make additional investments in solar power plants and subsequently the sale of the solar power plant and associated cash proceeds are delayed as described above, as well as making unexpected payments for supply of raw materials and balance of system costs. 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. Effective October 29, 2010, certain limitations regarding our ability to sell additional equity securities pursuant to our tax sharing agreement with Cypress have expired. However, the sale of additional equity securities or convertible debt securities would result in additional dilution to our stockholders and may not be avai lable on favorable terms or at all, particularly in light of the current crises 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, mortgage loan agreement with IFC, the revolving credit facility with Union Bank, the 4.50% debentures, 4.75% debentures and 1.25% debentures. Financing arrangements 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 October 3, 2010:

			Payments Due by Period			
(In thousands)		**Total**	**2010 (remaining 3 months)**	**2011-2012**	**2013-2014**	**Beyond 2014**
Convertible debt, including interest (1)		$ 770,953	$ 6,165	$ 245,752	$ 266,613	$ 252,423
Future financing commitments (2)		339,940	170	141,600	198,170	—
Customer advances (3)		83,283	4,303	22,980	16,000	40,000
Operating lease commitments (4)		64,332 < /div>	5,065	18,110	13,337	27,820
Utility obligations (5)		750	—	—	—	750
Non-cancelable purchase orders (6)	< /font>	14,729	14,729	—	—	—
Purchase commitments under agreements (7)		5,532,321	331,273	1,299,452	1,367,381 < /td>	2,534,215
Total		$ 6,806,308	$ 361,705	$ 1,727,894	$ 1,861,501	$ 2,855,208

(1) Convertible debt and interest on convertible debt relate to the aggregate of $678.7 million in outstanding principal amount of our senior convertible debentures on O ctober 3, 2010. 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 1.25% debentures and 0.75% debentures will require our Company to repurchase the debentures on February 15, 2012 and August 1, 2015, respectively, and upon conversion, the values of the 1.25% debentures and 0.75% debentures will be equal to the aggregate principal amount of $198.7 million with no premiums (see Note 10 of Notes to our Condensed Consolidated Financial Statements).

(2) On July 5, 2010, SPTL and AUO each contributed to AUOSP total initial funding of Malaysian Ringgit 45.0 million and will contribute additional amounts from 2011 to 2014 amounting to $335 million by each shareholder, or such lesser

amount as the parties may mutually agree (see Notes 8 and 9 of Notes to our Condensed Consolidated Financial Statements).

Further, on September 28, 2010, we invested $0.2 million in a related party. In connection with the related purchase agreement we will be required to provide additional financing of up to $4.9 million, subject to certain condition s (see Note 8 of Notes to our Condensed Consolidated Financial Statements).

(3) Customer advances relate to advance payments received from customers for future purchases of solar power products and future polysilicon purchases by a third party that manufactures ingots which are sold back to us under an ingot supply agreement.

(4) Operating lease commitments primarily relate to: (i) four solar power systems leased from Wells Fargo over minimum lease terms of 20 years; (ii) a 5-year lease agreement with Cypress for our headquarters in San Jose, California which expires in April 2011 (we will enter in to another operating lease arrangement for a San Jose, California facility before our current agreement with Cypress expires); (iii) an 11-year lease agreement with an unaffiliated third party for our administrative, research and development offices in Richmond, California; and (iv) other leases for various office space (see Note 8 of Notes to our Condensed Consolidated Financial Statements).

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

(6) Non-cancelable purchase orders relate to purchases of raw materials for inventory and manufacturing equipment from a variety of vendors (see Note 8 of Notes to our Condensed Consolidated Financial Statements).

(7) Purchase commitments under agreements relate to arrangements entered into with s everal suppliers, including joint ventures, for polysilicon, ingots, wafers and solar panels as well as agreements to purchase solar renewable energy certificates from solar installation owners in New Jersey. These agreements specify future quantities and pricing of products to be supplied by the vendors for periods up to eleven 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 (see Note 8 of Notes to our Consolidated Financial Statements).

As of October 3, 2010 and January 3, 2010, total liabilities associated with uncertain tax positions were $16.8 million and $14.5 million, respectively, and are included in "Other long-term liabilities" in our Condensed 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. For additional details see Note 10 of Notes to our Consolidated Financial Statements.< /font>

On October 29, 2010, we drew down $70.0 million under the revolving credit facility with Union Bank. In addition, on November 12, 2010, SPML borrowed $50 million under the mortgage loan agreement with the IFC. These transactions are excluded from the table above because they occurred in the fourth quarter in fiscal 2010. For additional details see Notes 10 and 17 of Notes to our C ondensed Consolidated Financial Statements.

Off-Balance-Sheet Arrangements

As of October 3, 2010, we did not have any significant off-balance-sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

Foreign C urrency 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 61% and 59% of total revenue in the three and nine months ended October 3, 2010, respectively, as compare to 63% and 49% in the three and nine months ended September 27, 2009, respectively. A 10% change in the Euro exchange rate would have impacted our revenue by $33.6 million and $75.6 million during the three and nine months ended October 3, 2010, respectively, as compared to $29.3 million and $47.8 million during the three and nine months ended September 27, 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. Weakening of the Korean Won against the U.S. dollar could result in a foreign currency remeasurement loss by Woongjin Energy which in turn negatively impacts our equity in earnings of the unconsolidated investee. In addition, strengthening of the Malaysian Ringgit against the U.S. dollar will increase AUOSP's liability under the facility agreement with the Malaysian Government which in turn negatively impacts 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 October 3, 2010, we had outstanding hedge option contracts and forward contracts with an aggregate n otional value of $241.5 million and $858.0 million, respectively. As of January 3, 2010, we held option and forward contracts totaling $228.1 million and $466.4 million, respectively, in notional value.

We cannot predict the impact of future exchange rate fluctuations on our business and operating results. In the past, we have experienced an adverse impact on our revenue, gross margin and profitability as a result of foreign currency fluctuations. For additional details see Note 12 of Notes to our Condensed Consolidated Financial Statements.

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, purchased options and share lending arrangements for our class A 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 11 years. Under cer tain agreements, we are required to make prepayments to the vendors over the terms of the arrangements. As of October 3, 2010 and January 3, 2010, advances to suppliers totaled $184.4 million and $190.6 million, respectively. Two suppliers accounted for 75% and 17% of total advances to suppliers as of October 3, 2010, and 76% and 15% of total advances to suppliers as of January 3, 2010.

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 one counterparty. The foreign currency derivative contracts are limited to a time period of less than one year. Our bond hedge and warrant transactions intended to reduce the potential cash payments upon conversion of the 4.50% debentures expire in 2015. Our class A common stock purchased options to purchase up to 8.7 million shares of our class A common stock (convertible debenture hedge transactions intended to reduce the potential dilution upon conversion of our 4.75% debentures) expire in 2014. We regularly evaluate the credit standing of our counterparty financial institutions.

In fiscal 2007, we entered into share lending arrangements of our class A common stock with high-quality financial institutions for which we received a nominal lending fee of $0.001 per share. We loaned 2.9 million shares and 1.8 million shares of our class A common stock to LBIE and CSI, respectively. Physical settlement of the shares is required when the arrangement is terminated. 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. 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. For additional details see Notes 8, 10 and 12 of Notes to our

Condensed Consolidated Financial Statements.

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 secure 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 fluctuat ions and the availability of credit, and would be adversely affected by increases in interest rates or liquidity constraints.

In addition, our investment portfolio consists of a variety of financial instruments that exposes us to interest rate risk including, but not limited to, money market funds and bank notes. These investments are generally classified as available-for-sale and, consequently, are recorded on our balance sheet at fair market value with their related unrealized gain or loss reflected as a component of accumulated other comprehensive loss in stockholders' equity. 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 portfolio. 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.

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 October 3, 2010 and January 3, 2010, investments of $106.9 million and $39.8 million, respectively, are accounted for using the equity method, and $6.4 million and $4.6 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 valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market price 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. For additional details see Notes 7 and 9 of Notes to our Condensed Consolidated Financial Statements.

Convertible Debt

The fair market value of our 0.75%, 1.25%, 4.50% and 4.75% 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 class A common stock increases and decrease as the market price of our class A common stock falls. The interest and market value changes affect the fair market v alue 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 class A 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 $626.7 million as of October 3, 2010 and the aggregate estimated fair value of the 4.75% debentures, 1.25% debentures and 0.75% debentures was $582.8 million as of January 3, 2010, 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 $689.3 million and $641.1 million as of October 3, 2010 and January 3, 2010, respectively, and a 10% decrease in the quoted market prices would decrease the estimated fair value of our then-outstanding debentures to $564.0 million and $524.5 million as of October 3, 2010 and January 3, 2010, respectively. For additional details see Note 10 of Notes to our Condensed Consolida ted Financial Statements.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) are designed to ensure that information required to be disclosed in reports filed or submitted under the Securities Exchange Act of 1934 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 management, including the Chief Executive Officer and the Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures.

Management of the Company, under the supervision and with the participation of the Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of our disclosure controls and procedures as of October 3, 2010.

As previously disclosed under Item 9A, "Controls and Procedures" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2010, we concluded that our disclosure controls and procedures were not effective at that time based on the following material weaknesses identified in our Philippines operations:

- There was not an effective control environment in our Philippines operations. Specif ically, certain of the Company's employees in the Philippines violated the Company's code of business conduct and ethics. Individuals in the Company's Philippines finance organization intentionally proposed and/or approved journal entries that were not substantiated by actual transactions or costs.
- We did not maintain in the Philippines operations, a sufficient complement of personnel with an appropriate level of accounting knowledge, experience and training to ensure that our controls, and specifically our controls ov er inventory variance capitalization, were effective.

These material weaknesses led to misstatements which ultimately resulted in the Company restating its financial statements as of and for the year ended December 28, 2008 and financial data for each of the quarterly periods for the year then ended and for the first three quarterly periods in the year ended January 3, 2010. As described below, management is actively engaged in efforts to remediate these material weaknesses.

Management believes, through the actions described below, that we have remediated the design deficiencies associated with the material weaknesses disclosed in our Annual Report on Form 10-K for the year ended January 3, 2010. However, these controls and procedures have not been tested, nor have they operated for a sufficient period of time to allow us to conclude that they are effective; therefore, we have concluded that our disclosure controls and procedures were ineffective as of October 3, 2010. These controls and procedures will be tested in connection with the preparation of the Company's Annual Report on Form 10-K for the year ended January 2, 2011.

Remedial Effects to Address the Material Weaknesses

To address the two material weaknesses described above, subsequent to January 3, 2010, the following remedial actions have been completed:

Reinforcement of the Company's Code of Business Conduct and Ethics:

- During the first, second and third fiscal quarter of 2010, we re-emphasized management's expectations to all accounting and finance employees in our Philippines operations regarding adherence to our policies and ethical business standards;

- During the first and second fiscal quarters of 2010, we developed and implemented additional training programs to increase awareness of our code of business conduct and ethics and "whistle-blower" policies;

- During the third fiscal quarter of 2010, we mandated related training as part of the new employee orientation process for the Philippines accounting and finance staff; and

- We continue to reinforce corporate policies as part of the all-hands meetings and month-end close meetings held with employees of our Philippines operations;

Resources, Employee Actions and Reporting Relationships

- During the first fiscal quarter of 2010, we appointed a new vice president and controller - Asia region;

- During the first fiscal quarter of 2010, we added resources to our corporate finance team to support enhancements for enterprise resource planning systems;

• During the first and second fiscal quarters of 2010, we terminated employees due to involvement in unethical activities or insufficient qualifications to perform assigned activities;

- During the first and second fiscal quarters of 2010, we reorganized reporting structures so that accounting employees in the Philippines report directly on a centralized basis to the chief financial officer's organization;

- During the first, second and third fiscal quarters of 2010, we added corporate management presence in the Philippines;

- During the first, second and third fiscal quarters of 2010, we hired additional qualified employees in our Philippines finance organization for key leadership positions; and

- During the first, second and third fiscal quarters of 2010, we segregated duties between the financial planning and accounting functions and added additional layers of accounting review;

Process Improvements in Philippines

- During the first fiscal quarter of 2010, we standardized and documented our process for capitalizing manufacturing variances;

- During the first fiscal quarter of 2010, we added specific reviews for required manual journal entries;

- During the first and second fiscal quarters of 2010, we established a formal proc ess for certifications and sub-certifications of financial reports;

- During the second fiscal quarter of 2010, we trained responsible employees on the proper method to capitalize manufacturing variances;

- During the third fiscal quarter of 2010, we standardized and documented key accounting policies and job descriptions for all accounting employees; and

- During the third fiscal quarter of 2010, we improved our monthly and quarterly closing processes by enabling functions within our enterprise resource planning system, standardizing reports generated from the system and providing implementation training.

Our management is committed to maintaining a strong control environment, high ethical standards, and financial reporting integrity throughout the Company, including our Philippines operations. Although management believes that we have remediated the design deficiencies associated with the material weaknesses described above, there can be no assurance that our testing will confirm that our internal control over financial reporting will be effective as of January 2, 2011, the date as of which management will next report on internal control over financial reporting under Sarbanes-Oxley Section 404. If the remedial measures described do not sufficiently address the material weaknesses, or any additional deficiency that may arise in the future, material misstatements in our interim or annual financial statements may occur in the future.

Further, any system of controls, no matter how well designed and operated, cannot provide absolute assurance that the objectives of the system of controls are or will be met, and no evaluatio n of controls can provide absolute assurance that all control issues within a company have been detected or will be detected under all potential future conditions.

Changes in Internal Control over Financial Reporting

As described above, there have been changes in our internal control over financial reporting during the quarter ended October 3, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Audit Committee Investigation and Related Litigation

In November 2009, the Audit Committee of our Board of Directors initiated an independent investigation regarding certain unsubstantiated accounting entries. The Audit Committee announced the results of its investigation in March 2010. For information regarding the Audit Committee's investigation, see P art I - "Item 1: Notes to Condensed Consolidated Financial Statements - Note 1," "Item 2: Management's Discussion and Analysis of Financial Condition and Results of Operations - Restatement of Previously Issued Condensed Consolidated Financial Statements" and our Company's Annual Report on Form 10-K for the year ended January 3, 2010. For a description of the control deficiencies identified by management as a result of the investigation and our internal reviews, and management's plan to remediate those deficiencies, see Part I - "Item 4: Controls and Procedures."

Three securities class action lawsuits were filed against our Company and certain of our 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 our securities from April 17, 2008 through November 16, 2009. The cases were consolidated as Plichta v. SunPower Corp. et al., 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. The consolidated complaint alleges that the defendants made material misstatements and omissions concerning our Com pany'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. We believe we have meritorious defenses to these allegations and will vigorously defend ourselves in these matters. The court held a hearing on the defendant's motions to dismiss the consolidated complaint on November 4, 2010, and took the motions under submission. We are currently unable to determine if the resolution of these matters will have an adverse effect on our financial position, liquidity or results of operations.

Derivative actions purporting to be brought on our behalf have also been filed in state and federal courts a gainst 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 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 or before December 3, 2010. 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 complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seek an unspecified amount of damages. We intend to oppose the derivative plaintiffs' efforts to pursue this litigation on our behalf. We are currently unable to determine if the resolution of these matters will have an adverse effect on our financial position, liquidity or results of operations.

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

ITEM 1A: RISK FACTORS

In addition to the other information set forth in this report, you should carefully consider the risk factors discussed in “PART I. Item 1A: Risk Factors” in our Annual Report on Form 10-K for the year ended January 3, 2010, which could materially affect our business, financial condition or future results. The risks described in our Annual Report on Form 10-K and below are not the only risks facing our company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or future results.

In addition to the other risk factors contained in our Annual Report on Form 10-K, we have updated the following risk factors to reflect changes during the nine months ended October 3, 2010. Certain of the risk factors from our Annual Report on Form 10-K have been updated below to reflect the change in our reporting segments beginning the quarter ended July 4, 2010. The following risk factors should be read in connection with the risk factors discussed in “PART I. Item 1A: Risk Factors” in our Annual Report on Form 10-K.

Risks Related to Our Supply Chain

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

We plan to purchase a portion of our total product mix from third-party manufacturers of solar cells and panels. Such products increase our inventory available for sale to customers in some markets. Howev er, 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. In addition 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 and panels 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 Sales Channels

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, which we expect to increase as we expand our manufac turing capacity. For example, in the second fiscal quarter of 2010 we experienced a net loss. We may not be profitable on a quarterly basis. Our quarterly revenue and operating results will be difficult to predict and have in the past fluctuated from quarter to quarter. In particular, revenue in our UPP Segment is difficult to forecast and is susceptible to large fluctuations. The amount, timing and mix of sales in our UPP Segment, 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, our UPP Segment is dependent on large scale projects and often a single project can account for a material portion of our total revenue in a given quarter. Further, our revenue mix of high margin materials sales versus lower margin project sales can fluctuate dramatically from quarter to quarter, which may adversely affect our revenue and financial results in any given period. Any decrease in revenue from our large UPP Segment customers, whether due to a loss of projects or an inability to collect, could have a significant negative impact on our business. Our agreements with these customers may be cancelled if we fail to meet certain product specifications or materially breach the agreement. In the event of 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. Our inability to execute upon the sale of our projects as planned, or any delay in obtaining the required initial payments to begin recognizing revenue under real estate accounting, 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. Finally, a delayed disposition of a project could require us to recognize a gain on the sale of a ssets instead of recognizing revenue. Any of the foregoing may cause us to miss any current and future revenue or earnings guidance announced by us 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.

< div style="line-height:120%;text-align:left;font-size:10pt;">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, ou r 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 cells since late 2004 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 2, 5 or 10-year limited warranty 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. Wa rranty 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. 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 los ses associated with third-party claims caused by defects or quality issues in their products. For example, most manufacture 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.

Any increase in the defect rate of SunPower or third party products would 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 cells. 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. 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 late 2004 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 a gainst 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. However, 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.

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 fluctuate.

Our product sales to residential dealers and components customers are frequently not accomplished 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 insignificant, 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, variations in 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.*

Almost all of our construction 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 construction contracts in both our UPP Segment and R&C Segment are fixed price contracts. All essential costs are estimated at the time of entering into the construction 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, 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, which 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:

- System output performance guarantees;
- System maintenance;
- 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;
- Guarantees of certain minimum residual value of the system at specified future dates; and
- 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 facto rs 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 Operations

If we are not successful in adding additional production lines through our joint venture in Malaysia, 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 currently have 16 solar cell manufacturing lines in production which are located at our manufacturing facilities in the Philippines. If our current or future production lines were to experience any problems or downtime, we would be unable to meet our production targets and our business would suffer. If any equipment were to break down or experience downtime, it could cause our production lines to go down.

In addition, we are constructing another manufacturing facility in Malaysia through a joint venture with AU Optronics Corporation ("AUO"). Under the joint venture agreement, we and AUO jointly own and manage the manufacturing facility. We plan to deploy our solar cell technology and process know-how and AUO's manufacturing expertise to install and operate the new manufacturing facility. We expect the joint venture to provide a substantial portion of our solar cell supply beginning in 2011.

Our manufacturing activities have required and will continue to require significant management attention, a significant investment of capital and substantial engineering expenditures. The success of our joint venture is subject to significant risks including:

- cost overruns, delays, equipment problems and other operating difficulties;
- difficulties expanding our processes to larger production capacity;
- custom-built equipment may take longer and cost more to engineer than planned and may never operate as designed;
- 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;
- problems managing the joint venture with AUO, whom we do not control and whose business objectives are different from ours and may be inconsistent with our best interest;
- AUO's ability to obtain interim financing to fund the joint venture's business plan until such time as third party financing is obtained;
- the joint venture's ability to obtaining third party financing to fund its capital requirements;
- difficulties in maintaining or improving our historical yields and manufacturing efficiencies;
- difficulties in protecting our intellectual property and obtaining rights to intellectual property developed by the joint venture;
- difficulties in hiring key technical, management, sales and other personnel;
- difficulties in integration, implementing IT infrastructure and an effective control environment; and
- &n bsp;potential inability to obtain, or obtain in a timely manner, 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 ramp up our manufacturing capacity at the joint venture as planned, or we experience interruptions in the operation of our existing producti on lines, our per-unit manufacturing costs would increase, we would be unable to increase sales or gross margins as planned, we would need to increase our supply of third party solar 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 cells, 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. This often occurs during the production of new products or the installation and start-up of new process technologies or equipment. As we expand our manufacturing capacity and bring additional lines or facilities into production, we may initially experience lower y ields as is typical with any new equipment or process. We also expect to experience lower yields as we continue the initial migration of our manufacturing processes to thinner wafers. If we do not achieve planned yields, our product costs could increase, and product availability would decrease resulting in lower revenues than expected.

Additionally, products as complex as ours may contain undetected errors or defects, especially when first introduced. For example, our solar cells and 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 re-engineering costs, divert the attention of our engineering personnel fro m product development efforts and significantly affect our customer relations and business reputation. If we deliver solar cells or solar panels with errors or defects, including cells or panels of third-party manufacturers, or if there is a perception that such solar cells or solar panels 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 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 up to two years.

Developing solar power plants may r equire significant upfront investments prior to our recognizing any revenue, which could adversely affect our business and results of operations.

In March 2010, we acquired SunRay, a European solar power plant developer with offices in Europe and the Middle East, for $282 million. Since the acquisition of SunRay, our project development business has expanded significantly from the then existing project development business in North America. The development of solar power plants can require long periods of time and substantial initial investments, which may never be recovered if a potential project 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, pe rmitting, financing, construction, operation and the eventual sale of the projects. We will often choose to bear the costs of such efforts 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), and in some cases the actual costs of constructing a project, in advance of the signing of PPAs and EPC contracts, the sale of the project and the receipt of any revenue, much of which is not recognized for several additional months or years following contract signing. Our ability to monetize the SunRay 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. Since consummation of the acquisition of SunRay, we have deferred revenue on SunRay construction projects until the projects have been financed and sold to independ ent 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 enter into sales contracts with customers after making such upfront investments could adversely affect our business, liquidity and results of operations. Our inability to execute upon the sale of our projects as planned, or any delay in obtaining the required initial payments to begin recognizing revenue under real estate accounting, 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.

We depend on third-party subcontractors 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.

Historically, we relied on Jiawei SolarChina Co., Ltd. ("Jiawei"), a third-party subcontractor in China, to assemble a significant portion of our solar cells into solar panels and perform panel testing and to manage packaging, warehousing and shipping of our solar panels. In May 2009, we entered into an arrangement with Jabil Circuit, Inc. ("Jabil ") for similar services that are provided in Mexico. In December 2009, we entered into another arrangement with Jabil for similar services provided in Poland beginning in the first quarter of fiscal 2010. We continue to negotiate with and enter into agreements with other third parties to assemble our solar cells or third-party solar cells into panels. In addition, we plan to manufacture up to a quarter of our solar panels in the United States within the next two years, whether produced internally or by third-party subcontractors *located in states near attractive solar markets. 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 Jiawei, Jabil or other 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 subcontractor or to a captive panel assembly facility could involve increased costs, resources and development time, and utilizing additional third-party subcontractors 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 some of our cust omers 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, which could have a material adverse effect on our business and results of operations.

We act as the general contractor for some of our customers in connection with the installation of our solar power systems. All essential costs are estimated at the time of entering into the sales 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 other project developers, subcontractors, suppliers and other parties to the project. 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. Should miscalculations in planning a project or defective or late execution occur, we may not achieve our expected margins or cover our costs. Also, some systems customers require performance bonds issued by a bonding agency or letters of credit issued by financial institutions. Due to the general performance risk inherent in construction activities, it has become increasingly difficult recently to secure suitable bonding agencies willing to provide performance bonding, and obtaining letters of credit requires adequate collateral because we have not obtained a credit rating. In the event we are unable to obtain bonding or sufficient letters of credit, we will be unable to bid on, or enter into, sales contracts requiring such bonding.

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 its solar installation 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 g ive 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, an d 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 for $282 million. In July 2010, we formed a joint venture with AUO to jointly own and operate our third solar cell manufacturing factory located in Malaysia. See also "If we are not successful in adding additional production lines through our joint venture in Malaysia, 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:

- 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;
- problems integrating the acquired operations, personnel, IT infrastructure, technologies or products with the existing business and products;
- diversion of management time and attention from the core business to the acquired business or joint venture;
- &nb sp;potential failure to retain or hire key technical, management, sales and other personnel of the acquired business or joint venture;
- 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;
- potential failure of the due diligence processes to identify significant issues with product quality and development or legal and financial liabilities, among other thin gs;
- potential inability to obtain, or obtain in a timely manner, approvals from governmental authorities, which could delay or prevent acquisitions or the successful operation of joint ventures;
- potential necessity to re-apply for permits of acquired projects;
- problems managing joint ventures with our partners, and reliance upon joint ventures which we do not control, for example, our ability to effectively manage our joint venture with AUO for the expansion of our manufacturing capacity;
- & nbsp; subsequent impairment of the acquired assets, including intangible assets; and
- assumption of liabilities including, but not limited to, lawsuit s, tax examinations, warranty issues, 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 req uire us to incur additional indebtedness. Further, following the spin-off of our shares by Cypress on September 29, 2008, our ability to issue equity, including to acquire companies or assets, is subject to limits as described in "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 obtain additional financing, participate in future acquisitions or pursue other business initiatives." in "Part I. Item 1A: Risk Factors" in our Annual Report on Form 10-K. To the extent these limits prevent us from pursuing acquisitions or investments that we would otherwise pursue, our growth and strategy could be impaired.
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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.

We may in the future be required to consolida te 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. Our significant VIEs include our joint venture in

Woongjin Energy Co., Ltd. and First Philec Solar Corporation, our future equity interest in a polysilicon manufacturer in Saudi Arabia, and our joint venture with AUO to operate our Malaysian manufacturing plant. To ascertain if we are required to consolidate these entities, we determine whether 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 the amount of our equity in relation to that of our partners. Changes in the financial accounting guidance, or changes in circumstanc es 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.

We carry significant goodwill on our balance sheet, which is subject to impairment testing and could subject us to significant non-cash charges to earnings in the future if impairment occurs.

As of October 3, 2010, we had goodwill of $344.9 million, which represented 12% of our total assets. We have completed strategic acquisitions which have increased our goodwill; most recently, our acquisition of SunRay increased our goodwill by $146.9 million in the first nine months of fiscal 2010. The value of this asset may increase in the future if we complete acquisitions as part of our overall business strategy. Goodwill is not amortized, but is tested for impairment annually. 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 more often if indicators of impairment exist. Triggering events for additional impairment review may include indicators such as adverse industry or economic trends, lower than projected operating results or cash flows, or a sustained decline in our stock price or market capitalization. Our stock price has declined significantly since mid-2008, which increases the risk of goodwill impairment if the price of our stock does not recover. 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, significant wri te-downs of goodwill may be required, which would result in a significant non-cash charge to earnings and lower stockholders' equity. As of our annual goodwill impairment test on October 3, 2010, we concluded there was no impairment to goodwill, however, the triggering events described above associated with an event of impairment may require us to evaluate the fair value of goodwill prior to the next annual review.

[Index](#)

Item 2: UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Issuer Purchases of Equity Securities

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

Period	**Total Number of Shares Purchased (in thousands)(1)**	**& nbsp;**	**Average Price Paid Per Share**	**Total Number of Shares Purchased as Part of Publicly Announc ed Plans or Programs**	**Maximum Number of Shares That May Yet Be Purchased Under the Publicly Announced Plans or Programs**
July 5, 2010 through August 1, 2010	3	$	12.88	—	—
August 2, 2010 through August 29, 2010	25	$	12.04	—	—
August 30, 2010 through October 3, 2010	19	$	12.02	— < font style="font-family:inherit;font-size:10pt;">	—
	47	$	12.08	—	—

(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.

Item 6. Exhibits

Exhibit Number	Description
10.1*	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 SunPower Malaysia Manufacturing Sdn. Bhd.
10.2*	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 SunPower Malaysia Manufacturing Sdn. Bhd.
10.3*†	Supply Agreement, dated July 5, 2010, by and among SunPower Malaysia Manufacturing Sdn. Bhd., SunPower Systems, Sarl and AU Optronics Singapore Pte. Ltd.
10.4*	License and Technology Agreement, dated July 5, 2010, by and among SunPower Technology, Ltd., AU Optronics Singapore Pte. Ltd. and SunPower Malaysia Manufacturing Sdn. Bhd.
10.5*	Sixth Amendment to Amended and Restated Credit Agreement, dated August 11, 2010, by and among SunPower Corporation, SunPower North America, LLC, SunPower Corporation, Systems and Wells Fargo Bank, National Association
31.1*	Certification by Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a).
31.2*	Certification by Chief Financial Officer Pursuant to Rule 13a- 14(a)/15d-14(a).
32.1*	Certification Furnished Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*^	XBRL Instance Document.
101.SCH*^	XBRL Taxonomy Schema Document.
101.CAL*^	XBRL Taxonomy Calculation Linkbase Document.
101.LAB*^	XBRL Taxonomy Label Linkbase Document.
101.PRE*^	XBRL Taxonomy Presentation Linkbase Document.
101.DEF*^	XBRL Taxonomy Definition Linkbase Document.

Exhibits marked with a cross (†) are subject to a request for confidential treatment filed with the Securities and Exchange Commission.

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

Exhibits marked with a carrot (^) 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 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: November 12, 2010	By:	/s/ DENNIS V. ARRIOLA
		Dennis V. Arriola
		Executive Vice President and
		Chief Financial Officer

Index to Exhibits

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XBRL Taxonomy Calculation Linkbase Document.

Exhibit Number	Description
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10.2*	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 SunPower Malaysia Manufacturing Sdn. Bhd.
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Exhibits marked with an asterisk (*) are filed herewith.

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

EXECUTION VERSION

AMENDMENT NO. 1 TO JOINT VENTURE AGREEMENT

This AMENDMENT NO. 1 TO JOINT VENTURE AGREEMENT (this "Amendment") is made and entered into as of June 29, 2010, by and among (i) SunPower Technology, Ltd., a company organized under the laws of the Cayman Islands ("SPTL"); (ii) AU Optronics Singapore Pte. Ltd., a company organized under the laws of Singapore ("AUO"); (iii) solely for purpose of Section 18 below, AU Optronics Corporation, a company organized under the laws of Taiwan, R.O.C. ("AUO Taiwan"); and (iv) SunPower Malaysia Manufacturing SDN.BHD., a company organized under the laws of Malaysia (the "JVC"). Capitalized terms used but not defined herein shall have the meanings given to them in the Initial Agreement (as defined below).

RECITALS

A. & nbsp;The parties hereto are parties to that certain Joint Venture Agreement dated as of May 27, 2010 (the "Initial Agreement").

B. The parties hereto desire to enter into this Amendment to memorialize their agreement with respect to the matters referred to herein.

AGREEMENT

NOW THEREFORE, in furtherance of the foregoing premises and in consideration of the mutual covenants and obligations hereinafter set forth, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, do agree as follows:

1. Each reference, whether direct or indirect, in the Initial Agreement to the Initial Agreement (including, without limitation, references to "this Agreement") shall mean and be a reference to the Initial Agreement, as amended by this Amendment.

2. Section 2.4(a) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

> *"(a) On the Closing Date, (i) pursuant to a Subscription Agreement, in a form mutually agreed upon in writing by the JVC and the Shareholders (the "SPTL Subscription Agreement"), SPTL shall subscribe for, and the JVC shall issue to SPTL, an additional number of Shares mutually agreed upon in writing by the JVC and the Shareholders (which, together with the Shares beneficially owned by SPTL prior to the Closing, will constitute fifty percent (50%) of the equity interest in the JVC, measured on a fully-diluted basis, on the Closing Date), and (ii) pursuant to a Subscription Agreement, in a form mutually agreed upon in writing by the JVC and the Shareholders (the "AUO Subscription Agreement"), AUO shall subscribe for, and the JVC shall issue to AUO, a number of Shares mutually agreed upon in writing by the JVC and the Shareholders (which will constitute fifty percent (50%) of the equity interest in the JVC, measured on a fully-diluted basis, on the Closing Date). For the avoidance of doubt, the Parties acknowledge and agree that (i) on the Closing Date, the Shareholders will subscribe for, and the JVC will issue to the Shareholders, all of the Shares contemplated by this Section 2.4(a), even though not all of the purchase price for such Shares will have been paid by the Shareholders on the Closing Date, (ii) the cash payments to be*

contributed by the Shareholders after the Closing Date in accordance with Se ction 2.4(b)(i) and Section 2.4(c)(i) represent the only portion of the purchase price for such Shares that will not be paid by the Shareholders on the Closing Date, (iii) the making of such additional cash payments by the Shareholders will not represent additional purchases of Shares, and (iv) no additional representations or warranties will be made after the Closing Date with respect to the Shares contemplated by this Section 2.4(a).”

3. Section 2.4(b)(i) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

“(i) SPTL shall cause to be contributed to the JVC cash contributions in an aggregate amount equal to RM48,000,000 (less RM750,000, which represents the aggregate amount of cash contributed by SPTL to the JVC prior to the date of this Agreement) plus $335,000,000, with an initial portion of such contributions being paid to the JVC prior to the Closing Date and the remaining portions paid to the JVC over time, in each case in the amounts and on the dates mutually agreed in writing by the JVC and the Shareholders (as may be adjusted and amended from time to time by mutual written agreement of both Shareholders, and in no event may the total cash contribution made by SPTL pursuant to this Section 2.4(b)(i) exceed $350,000,000);”

4. Section 2.4(c)(i) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

“(i) AUO shall cause to be contributed to the JVC cash contributions in an aggregate amount equal to RM48,000,000 plus $335,000,000, with an initial portion of such contributions being paid to the JVC on the Closing Date and the remaining portions paid to the JVC over time, in each case in the amounts and on the dates mutually agreed in writing by the JVC and the Shareholders (as may be adjusted and amended from time to time by mutual written agreement of both Shareholders, and in no event may the total cash contribution made by AUO pursuant to this Sectio n 2.4(c)(i) exceed $350,000,000);”

5. Each party hereto hereby represents to the other parties hereto that, to the extent applicable, (i) all action on the part of such representing party, its officers, directors, partners and securityholders necessary for the authorization, execution, delivery and performance of all obligations under this Amendment has been taken, (ii) this Amendment constitutes a valid and legally binding obligation of such representing party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject as to enforceability to general principles of equity, and (iii) the execution, delivery and performance of this Amendment will not resul t in any violation of, be in conflict with, or constitute a default under, with or without the passage of time or the giving of notice, any provision of such representing party's organizational documents, in each case as amended through the date hereof.

6. Except as expressly modified by this Amendment, the Initial Agreement shall remain in full force and effect in accordance with its terms. To the extent that there are any inconsistencies or ambiguities between this Amendment and the Initial Agreement, the terms of this Amendment shall supersede the Initial Agreement.

7. This Amendment shall not be modified, amended, canceled or altered in any way, and may not be modified by custom, usage of trade or course of dealing, except by an instrument in writing signed by all of the parties hereto. All amendments or modifications of this Amendment shall be binding upon the parties hereto despite any lack of consideration so long as the same shall be in writing and executed by the parties hereto.

8. This Amendment and all disputes arising out of or in connection with this Amendment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of California, without regard to conflicts of laws principles. Any disputes incapable of being resolved by mutual agreement of the parties hereto shall be handled in accordance with Section 18.2 (Arbitration) of the Initial Agreement; provided, however, that the JVC may not take any action with respect to any such disputes or arbitration or settlement thereof without the written consent of both SPTL and AUO.

9. This Amendment may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[Signatures follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to Joint Venture Agreement to be executed by their respective duly authorized signatories as of the day and year first written above.

AU OPTRONICS SINGAPORE PTE. LTD.

By: /s/ James CP Chen

Name: James CP Chen

Title: Junior AVP

AU OPTRONICS CORPORATION

By: /s/ Lai Juh Chen

Name: Lai Juh Chen

Title: President

SUNPOWER TECHNOLOGY, LTD.

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: President and Chief Executive Officer

SUNPOWER MALAYSIA MANUFACTURING SDN.BHD.

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: Director

Exhibit 10.2

EXECUTION VERSION

AMENDMENT NO. 2 TO JOINT VENTURE AGREEMENT

This AMENDMENT NO. 2 TO JOINT VENTURE AGREEMENT (this “Amendment”) is made and entered into as of July 5, 2010, by and among (i) SunPower Technology, Ltd., a company organized under the laws of the Cayman Islands (“SPTL”); (ii) AU Optronics Singapore Pte. Ltd., a company organized under the laws of Singapore (“AUO”); (iii) AU Optronics Corporation, a company organized under the laws of Taiwan, R.O.C. (“AUO Taiwan”); and (iv) SunPower Malaysia Manufacturing SDN.BHD., a company organi zed under the laws of Malaysia (the “JVC”). Capitalized terms used but not defined herein shall have the meanings given to them in the Initial Agreement (as defined below).

RECITALS

A. The parties hereto are parties to that certain Joint Venture Agreement dated as of May 27, 2010, as amended by that certain Amendment No. 1 to Joint Venture Agreement dated as of June 29, 2010 (the “< /font>Initial Agreement”).

B. The parties hereto desire to enter into this Amendment to memorialize their agreement with respect to the matters referred to herein.

AGREEMENT

NOW THEREFORE, in furtherance of the foregoing premises and in co nsideration of the mutual covenants and obligations hereinafter set forth, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, do agree as follows:

1. Each reference, whether direct or indirect, in the Initial Agreement to the Initial Agreement (including, without limitation, references to “this Agreement”) shall mean and be a reference to the Initial Agreement, as amended by this Amendment.

2. Section 2.4(b)(i) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

> “(i) SPTL shall cause to be contributed to the JVC cash contributions in an aggregate amount equal to RM45,000,000 (less RM750,000, which represents the aggregate amount of cash contributed by SPTL to the JVC prior to the date of this Agreement) plus $335,000,000, with an initial portion of such contributions being paid to the JVC prior to the Closing Date and the remaining portions paid to the JVC over time, in each case in the amounts and on the dates mutually agreed in writing by the JVC and the Shareholders (as may be adjusted and amended from time to time by mutual written agreement of both Shareholders, and in no event may the total cash contribution made by SPTL pursuant to this Section 2.4(b)(i) exceed $350,000,000);”

3. Section 2.4(c)(i) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

> “(i) AUO shall cause to be contributed to the JVC cash contributions in an aggregate amount equal to RM45,000,000 plus $335,000,000, with such contributions being paid to the JVC over time, in each case in the amounts and on the dates mutually agreed in writing by the JVC and the Shareholders (as may be adjusted and amended from time to time by mutual written agreement of both Shareholders, and in no event may the total cash contribution made by AUO pursuant to this Section 2.4(c)(i) exceed $350,000,000);”

4. Each party hereto hereby represents to the other parties hereto that, to the extent applicable, (i) all action on the part of such representing party, its officers, directors, partners and securityholders necessary for the authorization, execution, delivery and performance of all obligations under this Amendment has been taken, (ii) this Amendment constitutes a valid and legally binding obligation of such representing party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject as to enforceability to general principles of equity, and (iii) the execution, delivery and performance of this Amendment will not result in any violation of, be in conflict with, or constitute a default under, with or without the passage of time or the giving of notice, any provision of such representing party's organizational documents, in each case as amended through the date hereof.

5. Except as expressly modified by this Amendment, the Initial Agreement shall remain in full force and effect in accordance with its terms. To the extent that there are any inconsistencies or ambiguities between this Amendment and the Initial Agreement, the terms of this Amendment shall supersede the Initial Agreement.

6. This Amendment shall not be modified, amended, canceled or altered in any way, and may not be modified by custom, usage of trade or course of dealing, except by an instrument in writing signed by all of the parties hereto. All amendments or modifications of this Amendment shall be binding upon the parties hereto despite any lack of consideration so long as the same shall be in writing and executed by the part ies hereto.

7. This Amendment and all disputes arising out of or in connection with this Amendment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of California, without regard to

conflicts of laws principles. Any disputes incapable of being resolved by mutual agreement of the parties hereto shall be handled in accordance with Section 18.2 (Arbitration) of the Initial Agreement; provided, however, that the JVC may n ot take any action with respect to any such disputes or arbitration or settlement thereof without the written consent of both SPTL and AUO.

8. This Amendment may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[Signatures follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 2 to Joint Venture Agreement to be executed by their respective duly authorized signatories as of the day and year first written above.

AU OPTRONICS SINGAPORE PTE. LTD.	AU OPTRONICS CORPORATION
By: /s/ James CP Chen	By: /s/ Lai Juh Chen
Name: James CP Chen	Name: Lai Juh Chen
Title: Director	Title: Chief Executive Officer
SUNPOWER TECHNOLOGY, LTD.	SUNPOWER MALAYSIA MANUFACTURING SDN.BHD.
By: /s/ Thomas H. Werner	By: /s/ Thomas H. Werner
Name: Thomas H. Werner	Name: Thomas H. Werner
Title: Director	Title: Director

CONFIDENTIAL TREATMENT REQUESTED

CONFIDENTIAL PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED AND HAVE BEEN SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION

SUPPLY AGREEMENT

THIS SUPPLY AGREEMENT (this "Agreement") is made as of July 5, 2010 (the "Effective Date"), by and among SunPower Malaysia Manufacturing SDN.BHD., a company organized under the laws of Malaysia (the "JVC"), SunPower Systems Sarl, a company organized under the laws of Switzerland ("SPSW"), and AU Optronics Singapore Pte. Ltd., a company organized under the laws of Singapore ("AUO"). The JVC, SPSW and AUO are each referred to herein as a "Party" and together as the "Parties." Capitalized terms used but not defined in this Agreement or in Schedule 1 to this Agreement shall have the meanings ascribed to them in the JVA (as defined below).

RECITALS

WHEREAS, the JVC, AUO, SunPower Technology, Ltd., a company organized under the laws of the Cayman Islands ("SPTL"), and AU Optronics Corporation, a company organized under the laws of Taiwan, R.O.C., have entered into that certain Joint Venture Agreement dated as of May 27, 2010 (the "JVA");

WHEREAS, pursuant to the JVA, the business purposes of the JVC are to manufacture, sell and distribute flat plate solar cells using high-efficiency back contact, back-junction technology ("Product(s)") to each of SPTL (or applicable Affiliate thereof) and AUO;

WHEREAS, SPSW and SPTL are Affiliates;

WHEREAS, the Parties desire to enter into an agreement pursuant to which the JVC supplies Product to SPSW; and

WHEREAS, one of the conditions to the effectiveness of the JVA is that the Parties shall have entered into this Agreement.

NOW, THEREFORE, in furtherance of the foregoing premises and in consideration of the mutual covenants and obligations hereinafter set forth and in the JVA, and based on the consideration set forth in this Agreement and the JVA, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, do agree as follows:

1. **SCOPE OF AGREEMENT**.

1.1 **Affiliated Companies**. SPSW and its Affiliates may purchase Product under the terms of this Agreement. Submission of a Purchase Order referencing this Agreement and the issuance of an order acknowledgment is deemed to constitute acceptance of the terms of this Agreement by the applicable Affiliate. For purposes of this Agreement "***Buyer***" shall refer to either SPSW or its Affiliate issuing a Purchase Order.

1.2 **Master Agreement Structure**. The Parties acknow ledge that this Agreement shall not constitute a commitment to purchase any particular quantity of Products or services. Except as provided in Section 2.8, Buyer shall only be committed to purchase Products and the JVC shall only be committed and authorized to ship Products to Buyer when Buyer has tendered a Purchase Order. Notwithstanding the foregoing, the JVC shall offer

for sale to Buyer, in the fiscal years specified, the following percentage of the JVC's aggregate Product manufac turing capacity on any six-month period as is set forth in the Initial Annual Operating Plan or the Initial Mid-Year Operating Plan, as applicable: 95% in 2010, 90% in 2011, 85% in 2012 and 80% in 2013 or in any fiscal year thereafter.

2. <u>FORECASTS AND PURCHASE ORDERS</u>.

2.1 **<u>Initial Annual Operating Plan</u>**. The JVC will provide Buyer with an initial production forecast, issued at least 8 weeks prior to the first day of each fiscal year, which sets forth the JVC's good faith estimate of the aggregate amount of Product that the JVC will produce in such year on a monthly basis (the "***Initial Annual Operating Plan").***

2.2 **<u>Annual Demand Forecast</u>**. Buyer will provide the JVC with an annual demand forecast, issued at least 7 weeks prior to the first day of each fiscal year, which sets forth Buyer's Product demand for such fiscal year on a monthly basis (the "***Annual Demand Forecast***"); <u>provided</u>, <u>however</u>, that for any fiscal year, such demand shall not exceed the amount of Product set forth in the Initial Annual Operating Plan for such year or that the JVC is obligated to provide to Buyer in such year pursuant to Section 1.2. The difference between Buyer's Product allocation and Annual Demand Forecast shall be known as the "***SPSW Unsubscribed Annual Forecast***." If Buyer's Annual Demand Forecast is less than Buyer's Product allocation for the first six months in any year pursuant to Section 1.2, then during the term of that certain Supply Agreement among the JVC, AUO and SPTL dated f even date herewith ("***AUO Supply Agreement***"), the JVC shall deliver notice to AUO that it or may subscribe to purchase the SPSW Unsubscribed Annual Forecast with respect to such six months. AUO shall confirm in writing within 7 days whether it will purchase all or a portion of the SPSW Unsubscribed Annual Forecast. If AUO's Product demand for the first six months of any fiscal year (the "***AUO Annual Demand Forecast***") pursuant to the AUO Supply Agreement is less than AUO's Product allocation for such six month period pursuant to the AUO Supply Agreement, then during the term of this Agreement, the JVC shall deliver notice to Buyer that it may subscribe to purchase the difference between such Product allocation and the AUO Annual Demand Forecast (the "***AUO Unsubscribed Annual Forecast***") with respect to the applicable six month period of such AUO Annual Demand Forecast. Buyer shall confirm in writing within 7 days whether it will purchase all or a portion of the AUO Unsubscribed Annual Forecast.

2.3 **<u>Final Annual Operating Plan</u>**. The JVC will provide Buyer with an annual production forecast, issued at least 5 weeks prior to the first day of each fiscal year, setting forth the JVC's revised estimate of aggregate amount of Product that the JVC will produce in such year, which shall not exceed the aggregate amount of Product subscribed for by Buyer and AUO pursuant to Section 2.2 (the "***Final Annual Operating Plan***"). The Final Annual Operating Plan shall have been approved by the Board prior to its delivery to Buyer. If AUO elects not to purchase all of the SPSW Unsubscribed Annual Forecast for any six month period or if Buyer elects not to purchase all of the AUO Unsubscribed Annual Forecast for any six month period pursuant to Section 2.2, then the JVC shall use best efforts to minimize Fixed and Variable Costs for such six month period.

2.4 **<u>Initial Mid-Year Operating Plan</u>**. The JVC will provide Buyer with an initial production forecast, issued at least 8 weeks prior to the first day of the third fiscal quarter,

which sets forth the JVC's good faith estimate of the aggregate amount of Product that the JVC will produce in the third and fourth quarter of such fiscal year on a monthly basis (the "Initial Mid-Year Operating Plan").

2.5 **Mid-Year Demand Forecast**. Buyer will provide the JVC with a demand forecast, issued at least 7 weeks prior to the first day of the third fiscal quarter, which sets forth Buyer's Product demand for the third and fourth quarter of such fiscal year on a monthly basis (the "***Mid-Year Demand Forecast***"); provided, however, that for any six month period, such demand shall not exceed the amount of Product set forth in the Initial Mid-Year Operating Plan or the amount that the JVC is obligated to provide to Buyer over the applicable six month period pursuant to Section 1.2. The difference between Buyer's Product allocation for any six month period and Mid-Year Demand Forecast for such period shall be known as the "***SPSW Unsubscribed Mid-Year Forecast***." If Buyer's Mid-Year Demand Forecast is less than Buyer's Product allocation for the applicable six month period pursuant to Section 1.2, then during the term of the AUO Supply Ag reement, the JVC shall deliver notice to AUO that it may subscribe to purchase the SPSW Unsubscribed Mid-Year Forecast with respect to such six month period. AUO shall confirm in writing within 7 days whether it will purchase all or a portion of the SPSW Unsubscribed Mid-Year Forecast with respect to the following six months. If AUO's Product demand for the last six months of any year (the "***AUO Mid-Year Demand Forecast***") pursuant to the AUO Supply Agreement is less than AUO's Product allocation for such six period pursuant to the AUO Supply Agreement, then during the term of this Agreement, the JVC shall deliver notice to Buyer that it may subscribe to purchase the difference between such Product allocation and the AUO Mid-Year Demand Forecast (the "***AUO Unsubscribed Mid-Year Forecast***") with respect to the applicable six month period of such AUO Mid-Year Demand Forecast. Buyer shall confirm in writing within 7 days whether it will purchase all or a portion of the AUO Unsubscribed Mid-Year Forecast with respect to the following six months.

2.6 **Final Mid-Year Operating Plan**. The JVC will provi de Buyer with a production forecast, issued at least 5 weeks prior to the first day of the third fiscal quarter, which sets forth the JVC's revised estimate of aggregate amount of Product that the JVC will produce in the third and fourth quarter of such fiscal year, on a monthly basis, which shall not exceed the aggregate amount of Product subscribed for by Buyer and AUO pursuant to Section 2.5 (the "***Final Mid-Year Operating Plan***"). The Final Mid-Year Operating Plan shall have been approved by the Board prior to its delivery to Buyer. If AUO elects not to pu rchase all of the SPSW Unsubscribed Annual Forecast for any six month period or if Buyer elects not to purchase all of the AUO Unsubscribed Mid-Year Forecast for any six month period pursuant to Section 2.5, then the JVC shall use best efforts to minimize Fixed and Variable Costs for such six month period.

2.7 **Monthly Demand Allocation**. The JVC will deliver to Buyer a demand allocation once per month, w hich sets forth the aggregate amount of Product that the JVC expects to produce during the following month and sets forth the amount of Product to be purchased by Buyer and AUO during such month based on the JVC's expected production and each of Buyer's and AUO's percentage of aggregate Product demand for such month pursuant to Sections 2.2 and 2.5 of this Agreement and the AUO Supply Agreement, as applicable for such month (the "***Monthly Demand Allocation***"). The Monthly Demand Allocation

for any month shall be issued at least four weeks prior to the commencement of such month. Notwithstanding anything contained in this Agreement to the contrary, AUO and Buyer may reallocate their respective Product allocations as they may agree in writing from time to time, and the JVC agrees to honor any such reallocations and adjust Buyer's and AUO's Product allocations accordingly in the Monthly Demand Allocation.

2.8 **Purchase Order**. Buyer shall deliver a Purchase Order to the JVC in the first week of the then current month to confirm purchase commitments consistent with the Monthly Demand Allocation for the subsequent month of such Monthly Demand Allocation. Purchase Orders are a binding commitment to purchase Product. The JVC shall deliver a formal acknowledgement and acceptance within two business days from the date the Purchase Order was sent to the JVC. In the event that the JVC does not receive a Purchaser Order from Buyer with respect to any given month within the first 10 days of the prior month, Buyer shall be obligated in such given month to purchase an amount of Product consistent with the Monthly Demand Allocation for such month. Buyer and AUO shall meet with the JVC monthly to review updated monthly production forecasts and rescheduling of planned production and shipments.

2.9 **Binning and Testing**. The JVC shall bin and test solar cells manufactured by the JVC in accordance with SPTL Document Numbers 001-03833 Rev. *K and 001-04189 Rev. AI or as mutually agreed upon in writing by the Parties. Solar cells sorted into different bins but sti ll conforming to applicable specifications shall be allocated between Buyer and AUO in accordance with Section 1.2 and Sections 2.1-2.10 of this Agreement and the AUO Supply Agreement.

2.10 **Additional Allocations**. The JVC shall offer to sell solar cells manufactured by the JVC that do not satisfy the specifications set forth in Section 2.9, including scrap cells (collectively "***Offspec Cells***"), and such Offspec Cells shall be allocated between Buyer and AUO consistent with their respective allocations pursuant to Section 1.2 and Sections 2.1-2.10 of this Agreement and the AUO Supply Agreement. If the JVC manufactures more cells during a month than otherwise previously ordered by Buyer and AUO, then Buyer and AUO will purchase their respective allocations pursuant to Section 1.2 and Sections 2.2, 2.5, 2.7, 2.8 and 2.9 of this Agreement and the AUO Supply Agreement.

3. **PRICING**.

3.1 **Product Pricing**. Prices for the Products shall be calculated as described in Exhibit A to this Agreement. Upon Buyer's prior request, and by the end of the current mon th, or more frequently if Buyer requests, the JVC shall submit an updated cost forecast for the current and following twelve (12) months. Offspec Cells shall have a transfer price of *** dollars ($***).

4. **LEAD-TIME; DELIVERY**.

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4.1 **On-Time Delivery**. The JVC will maintain On-Time Delivery Performance equal to or greater than *** percent (***%), as measured each fiscal quarter.

4.2 **Shipping Specifications**. Buyer shall specify the delivery address in the Purchase Order or by separate notice. All shipping information, including that on invoices and packing labels will list the Country of Origin for all Products supplied, and must be in both text

and scannable bar code formats, as provided in the applicable Specification. The JVC shall deliver a shipment notice to Buyer by telefax, EDI, XML or other means of communication no later than the shipment date, and such notice shall include such information as agreed upon by the Parties.

4.3 **Delivery; Title; Risk of Loss; Damage**. The JVC agrees to deliver all Products to Buyer, EXW Melaka (Incoterms 2000), and title for such Products shall pass to Buyer when risk of loss passes in accordance therewith. The JVC shall be responsible for any loss or damage to Product due to the JVC's failure to properly preserve, package, or handle the Product. All Products shall be packaged, marked, and otherwise prepared in accordance with good commercial practices to reduce the risk of damage and to be packaged in the smallest commercially acceptable form in order to enable Buyer to obtain the lowest shipping rates possible (based on volum e metric dimensions) and in accordance with all applicable federal, state and local packaging and transportation laws and regulations.

4.4 **Inspections after Delivery**. Products shall be subject to inspection, testing and acceptance by Buyer. Buyer shall inspect all Products within a reasonable period after arrival at Buyer's premises. Such incoming inspection shall include checks for identity, quantity, d amage due to transportation and other visible damage or noncompliance with the Product Specifications. If Buyer's inspection results in multiple Products failing to meet the Product Specifications, then upon Buyer's request, the JVC shall inspect all Products delivered with such shipment to confirm compliance with Product Specifications, segregating conforming Products from nonconforming Products. The JVC shall be responsible for all costs incurred in connection with such inspection and sorting by the JVC.

4.5 **Product Specification Claims**. If Buyer determines as a result of its inspection that Products fail to meet Product Specifications and/or applicable warranties set forth in this Agreement, Buyer shall notify the JVC whereupon the JVC shall have the right to undertake its own inspection. Upon the JVC's request, Buyer shall ship to the JVC, at the JVC's expense, the nonconforming Product, along with relevant information from the shipping notice. If the Product fails to meet the acceptance criteria set forth in the Product Specifications, the JVC shall make, at the JVC's expense, such adjustments or corrections, or deliver replacement Product, as may be required to satisfy the requirements. The JVC shall be responsible for costs of either disposing or returning such nonconforming Products, including shipping and insurance costs.

5. **ENGINEERING CHANGES**.

5.1 The Parties agree that further changes, modifications or amendments to the Specifications shall only be accomplished by mutual agreement between the JVC and SPSW, with the consent of AUO (during the term of the AUO Supply Agreement), and through the formal change control process set forth below:

(a) Either Party may at any time propose changes to the Specifications by a written Engineering Change Notice (an "***ECN***") to the other party; provided, however, that no ECN shall not be binding unless approved in writing by both Parties.

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(b) The recipient of an ECN will use all reasonable efforts to provide a detailed response within seven (7) days of receipt.

(c) The JVC will inform Buyer of all known and likely impacts of an ECN (including but not limited to delivery scheduling and prices) on the provisions of any relevant Purchase Orders.

(d) The Parties will endeavour to agree and implement at the earliest opportunity ECNs relating to personal and product safety.

(e) Until an ECN and any associated impact have been agreed in writing, the Parties will continue to perform their obligations without taking account of that ECN.

6. **SUPPLY CONSTRAINTS**.

6.1 **Allocation**. The JVC will notify Buyer within one (1) business day or less, if possible, whenever the JVC identifies a reasonable likelihood that there is or will be a Supply Constraint that a dversely impacts either open Purchase Orders or forecasts. During any period of Supply Constraint, the JVC agrees to allocate materials and capacity to Buyer on a pro rata basis compared against all other pending Purchase Orders and production allocation rights. If JVC experiences a Supply Constraint consistently over one quarter due to a raw materials shortage, Buyer has a right to supplement with its own raw materials and provide such raw materials to the JVC until the JVC can demonstrate that it can source sufficient raw materials for its production, and in such event Buyer shall be reimbursed by the JVC for the cost of such raw materials.

7. & nbsp; **WARRANTIES**.

7.1 **General**. The JVC represents and warrants that: (a) it is duly incorporated and validly existing in its jurisdiction of formation or organizatio n; (b) it has full authority to enter into this Agreement; (c) this Agreement is a valid, legally binding and enforceable agreement; (d) there are no prior commitments or other obligations that prevent the JVC from fully performing all its obligations under this Agreement, and neither execution of this Agreement or performance of obligations hereunder will result in a breach of any obligations owed by the JVC under any other agreement; (e) the services to be provided in connection with the manufacture and sale of Products shall be performed in a good and workmanlike manner consistent with prevailing industry standards by competent and qualified personnel; (f) the JVC will not enter into any agreement or obligation that will conflict with the JVC obligations under this Agreement; (g) neither the JVC nor any of its Representatives has given to or received from Buyer or its Representatives any commission, fee, rebate, kickback, or unreasonable gift or entertainment of value in connection with this Agreement; (h) Buyer will receive good and marketable title to each Product free from liens or encumbrances of any nature; and (i) the Products comply with all applicable laws and regulations.

7.2 **Epidemic Failure Event**. Upon occurrence of an Epidemic Failure Event, the remedies of Section 7.2(a) and Section 7.2(b) below shall apply to the entire Product population affected by the root cause failure until corrective action is complete.

(a) **Corrective Action**. Upon occurrence of an Epidemic Failure Event, Buyer shall promptly notify the JVC and AUO, and shall provide, if known and as may then exist, a description of the failure, and the suspected lot numbers, serial numbers or

other identifiers, and delivery dates, of the failed Products. Buyer shall make available to the JVC, samples of the failed Products for testing and analysis. Upon receipt of the failed Products from Buyer, the JVC shall promptly provide its preliminary findings regarding the cause of the failure. The Parties shall cooperate and work together to determine the root cause. Thereafter, the JVC shall promptly provide to Buyer and AUO the results of its root cause corrective analysis, its proposed plan for the identifi cation of, and the pre-emptive repair and/or replacement of the affected Products, and such other appropriate information. The JVC shall recommend a corrective action program which identifies the affected units for pre-emptive repair or replacement, and which minimizes disruption to the end user. Buyer and the JVC shall consider, evaluate and determine the corrective action program, which shall be subject to AUO's written consent, not to be unreasonably withheld or delayed.

(b) **Remuneration**. Upon occurrence of an Epidemic Failure Event, the JVC shall: (i) at Buyer's option: (1) either pre-emptively repair and/or replace the affected Products; or (2) provide a credit or payment to Buyer in an amount equal to the cost to Buyer for qualified, replacement Products acceptable to Buyer; and (ii) all labor, equipment and processing costs incurred by Buyer or third parties in the implementation of the corrective action program, including test procedures, test equipment, the testing of Products, the cost of pre-emptively (i.e., prior to fail) repairing and/or replacing the affected Products; and (c) reasonable freight, transportation, customs, duties, insurance, storage, handling and other incidental shipping costs incurred by Buyer in connection with the repair and/or replacement of the affected Products.

8. **PAYMENT TERMS; INVOICES**.

8.1 **Payment**. Except as permitted under Section 8.2 below, payment is due within thirty (30) days after the receipt of invoice or receipt of Product, whichever is later (“***Payment Due Date***”).

8.2 **Adjustments**. Buyer shall not be required to pay the portion of any invoice that is the subject of a bona fide dispute pending resolution of that dispute. Invoices will be subject to adjustment by Buyer for errors, shortages, and/or rejected Products. Payment of an invoice does not constitute Product acceptance.

8.3 Invoices. The information on the JVC's invoice shall include, without limitation, the following (each stated separately): Purchase Order number, Buyer part number(s), quantities, unit value and settlement currency, and freight charges, if applicable. Any terms and conditions that may be printed on or attached to the JVC's invoice shall not be enforceable and shall not be incorporated into this Agreement. Invoices must be addressed to Buyer at the address set forth in Section 13.12(a), unless Buyer provides notice otherwise.

8.4 **Currency**. All references to amounts payable under this Agreement or any Purchase Order shall be to the currency of the United States of America (i.e., U.S. Dollars), unless expressly stated otherwise in the applicable Purchase Order from Buyer.

9. **CONFIDENTIAL INFORMATION**.

9.1 **Obligation**. The confidentiality obligations between the Parties shall be governed by the JVA.

10. **EXIT TRANSACTIO N**.

10.1 **Exit Transaction**. Upon the time (if any) in which SPTL or its Affiliates no longer hold any shares of the JVC, the terms and conditions set forth in Exhibit B to this Agreement are deemed incorporated herein and all other terms and conditions of this Agreement shall remain in full force and effect; provided, however, that to the extent that there are any inconsistencies or ambiguities between the terms set forth in Exhibit B and the other terms of this Agreement, the terms set forth in Exhibit B shall supersede the other terms of this Agreement. Until such time, the terms set forth in Exhibit B to this Agreement shall not apply.

11. C**OMPLIANCE PROGRAM**.

11.1 **Compliance with Applicable Law**. It is Buyer's policy to comply fully with all economic sanctions and trade restrictions promulg ated by the United States government. The JVC agrees to comply, in performing this Agreement, with all applicable laws, including, without limitation, all statutory and regulatory requirements under the Export Administration Regulations (15 C.F.R. § 730 et seq.) administered by the U.S. Department of Commerce; the laws, regulations, and executive orders implemented by the Office of Foreign Assets Control of the U.S. Department of the Treasury; and equivalent laws in any jurisdiction in which the JVC operates. In addition, the JVC shall comply with all laws and regulations applicable to the manufacture and sale of the Products, including, by way of example and not limitation, Executive Order 11246 as amended by Executive Order 11375 (non-discrimination in employment), the U.S. Clean Air Act of 1990, FAR 52.219-8, Utilization of Small Business Concerns (October 2000) (15. U.S.C. 637(d) (2) and (3)), and FARS 52.222-26, 52.222-35, 52.222-36 and 52.247-64. The JVC shall not use any ozone depleting substance s listed in annexes A and B of the Montreal Protocol, including but not limited to chlorofluorocarbons, in the manufacture of Products. Buyer reserves the right to reject any Products manufactured utilizing or containing such materials if Buyer has not previously been notified of the same. Additional requirements set forth in Exhibit C are incorporated by reference.

11.2 **Anti-Corruption Laws**. The JVC ack nowledges that it has reviewed a copy (available at www.justice.gov/criminal/fraud/fcpa) of the FCPA and confirms its understanding that the FCPA prohibits the payment or giving of anything of value either directly or indirectly, to an official of a foreign government, foreign political party or official thereof, or any candidate for foreign political office, for the purpose of influencing an act or decision in his official capacity, or inducing him to use his influence with the foreign government, to assist in obtaining or retaining business for or with, or directing business to, any person. The JVC agrees that it shall comply with the FCPA and similar anti-corruption laws and will take no action that would cause either Party to be in violation of such laws. The JVC agrees to immediately notify Buyer of any request that such Party receives to take any action that might constitute, or be construed as, a violation of anti-corruption laws. The JVC agrees that Buyer is authorized to take all appropriate actions

that Buyer reasonably deems is necessary to avoid a violation of anti-corruption laws. The JVC agrees that it shall keep and maintain accurate books and records necessary to demonstrate compliance with the foregoing, and that Buyer may, during the term of this Agreement and for a period of five years following the final payment under, or termination of, this Agreement, review or audit such books and records of the JVC.

11.3 **Conflicts of Interest**. Neither the JVC nor any of its Representatives shall give to, or receive from, Buyer or its Representatives any commission, fee, rebate, or any unreasonable gift or entertainment of value in connection with this Agreement, or enter into any other business arrangement with Buyer or its Representatives, other than those contemplated by the JVA, withou t the prior consent of the Buyer. The JVC shall (a) promptly notify Buyer of any violation of this clause and (b) repay or credit to Buyer any consideration received as a result of such violation. The JVC shall promptly disclose to Buyer any conflict of interest between (i) the JVC and its Representatives, on the one hand, and (ii) Buyer and its Representatives, on the other hand.

12. **TERM; EVENTS OF DEFAULT; TERMINATION**.

12.1 **Expiration**. The term of this Agreement shall commence on the Effective Date and continue for a period of seven (7) years ("***Initial Term***") and shall thereafter may be renewed for additional one (1) year periods by th e Buyer, in the Buyer's sole discretion; provided, however, that Buyer may terminate this Agreement under those certain circumstances set forth in the JVA; and provided, further, that this Agreement shall automatically terminate upon dissolution of the JVC.

12.2 **Force Majeure**. Neither Party shall be deemed to have failed to fulfil an obligation under this Agreement if the delay or failure is the result of a Force Majeure. To the extent reasonably practicable, within forty-eight (48) hours of commencement of a Force Majeure, the non-performing Party shall provide the other Party with oral notice of the Force Majeure, and within two (2) weeks of the commencement of a Force Majeure the non-performing Party shall provide the other Party with notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure cl aim. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure. The non-performing Party shall use reasonable efforts to overcome or mitigate the Force Majeure. Nothing in this Section 12.2 is meant to relieve the JVC's obligations under Section 7.3.

12.3 **Limitation of Liability**. EXCEPT FOR EACH PARTY'S OBLIG ATIONS REGARDING PROTECTION OF CONFIDENTIAL INFORMATION UNDER THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, GOODWILL, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), HOWEVER THEY ARISE, WHETHER IN BREACH OF CONTRACT, BREACH OF WARRANTY OR IN TORT, INCLUDING NEGLIGENCE, EVEN IF THAT PARTY HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIABILITY FOR DAMAGES WILL BE LIMITED AND EXCLUDED UNDER THIS

SECTION 12.3 EVEN IF ANY EXCLUSIVE REMEDY HEREUNDER FAILS OF ITS ESSENTIAL PURPOSE.

13. **<u>MISCELLANEOUS</u>**.

13.1 **<u>Entire Agreement</u>**. This Agreement, the JVA and the agreements, documents and instruments to be executed and delivered pursuant hereto or thereto are intended to embody the final, complete and exclusive agreement between the Parties with respect to the matters addressed herein; are intended to supersede all prior agreements, understandings and representations written or oral, with respect thereto; and may not be contradicted by evidence of any such prior or contemporaneous agreement, understanding or representation, whether written or oral.

13.2 **<u>English Language</u>**. All agendas, notices, other documentation relating to this Agreement shall be prepared in and entered into the English language. In the event of any dispute concerning the construction or meaning of this Agreement, the text of the Agreement as written in the English language shall prevail over any translation of this Agreement that may have been or will be made.

13.3 **<u>Interpretation</u>**. In this Agreement: (i) headings are for convenience of reference only and shall not affect the interpretation of the provisions of this Agreement except to the extent that the context otherwise requires; (ii) words importing the singular shall include the plural and vice versa; (iii) words denoting individuals shall include any form of entity and vice versa; (i v) words denoting any gender shall include all genders; (v) where any act, matter or thing is required by this Agreement to be performed or carried out on a certain day and that day is not a Business Day, then that act, matter or thing shall be carried out or performed on the next following Business Day; (vi) unless specified otherwise, any reference herein to any Section shall be deemed to be a reference to a Section of this Agreement; (vii) any reference to any agreement, document or instrument shall refer to such agreement, document or instrument as amended, modified or supplemented; (viii) the words “include,” “including” and the derivations thereof shall not be limiting and shall be deemed to be followed by the phase “without limitation”, (ix) where there is any inconsistency between the definitions set out in this clause and the definitions set out in any Section, then for the purposes of construing such Section, the definitions set out therein shall prevail, (x) ref erences to “$” are to the lawful currency of the United States, (xi) where any provision is qualified or phrased by reference to the ordinary course of business, such reference shall be construed as meaning the customary course of business in the country concerned and (xii) references to any “fiscal” period shall refer to such period in accordance with the JVC's fiscal year.

13.4 **<u>Counterparts</u>**. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

13.5 **<u>Severability</u>**. If one or more of the provisions of this Agreement shall be found, by a court with proper jurisdiction, to be illegal, invalid or unenforceable, it shall not affect the legality, va lidity or enforceability of any of the remaining provisions of this Agreement. The Parties agree to attempt to substitute for any illegal, invalid or unenforceable

provision a legal, valid or enforceable provision that achieves to the greatest extent possible the economic objectives of the illegal, invalid or unenforceable provision.

13.6 **Amendment**. This Agreement shall not be modified, amended, cancelled or altered in any way, and may not be modified by custom, usage of trade or course of dealing, except by an instrument in writing signed by the JVC (with the written consent of AUO) and SPSW. The failure to refer to this Agreement in related Purchase Order, invoices, and quotations exchanged by the Parties will not per se affect the governance of this Agreement.

13.7 **Survival**. Sections 4.4, 4.5, 7.1, 7.2, 9.1, 11.1-11.3, 12.1-12.3 and 13.1-13.14 shall survive any termination or expiration of this Agreement for as long as necessary to permit their full discharge.

13.8 **Waiver**. The performance of any obligation required of the JVC or AUO hereunder may be waived only by a written waiver signed by the other party (and in the case of a waiver by the JVC, with the written consent of AUO), and such waiver shall be effective only with respect to the specific obligation described. The waiver by either of the JVC or SPSW of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach of the same provision or another provision of this Agreement.

13.9 **Successors and Assigns**. The provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. Notwithstanding the foregoing, this Agreement shall not be assignable or otherwise transferable by any party hereto without the prior written consent of the other parties thereto, and any purported assignment or other transfer without such consent shall be void and unenforceable; provided, however, that either of SPSW or AUO may assign this Agreement:

(a) to any of its who lly-owned, direct or indirect subsidiaries so long as it will be made at the same time as a transfer of its (or, in the case of SPSW, SPTL's) shares in the JVC to such subsidiary specifically permitted by this Agreement; and

(b) in connection with the sale of all of its (or, in the case of SPSW, SPTL's) shares in the JVC beneficially owned by such party as specifically provided by this Agreement.

13.10 **Third-party Beneficiaries**. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto, their respective permitted successors and assigns, including Buyer's Contractors, and AUO (which shall have the right to enforce this Agreement on the JVC's and/or its own behalf), and no other person or entity shall be a third-party beneficiar y of, or have any direct or indirect cause of action or claim in connection with this Agreement.

13.11 **Disclaimer of Agency**. The Parties are, and intend to be, independent contractors with respect to the services described in this Agreement. This Agreement shall not be deemed to constitute any Party the agent of the other Party.

13.12 **Notices**. All notices, demands, requests, consents or other communications hereunder shall be in writing and shall be given by personal delivery, by express courier, by

registered or certified mail with return receipt requested, or by facsimile, at the addresses shown below, or to such other address as may be designated by written notice given in accordance with this Section 13.12. Unless conclusively proved otherwise, all notices, demands, requests, consents or other communications hereunder shall be deemed effective upon delivery if personally delivered, five (5) days after dispatch if sent by express courier, fourteen (14) days after dispatch if sent by registered or certified mail with return receipt requested, or confirmation of the receipt of the facsimile by the recipient if sent by facsimile.

(a) To Buyer:

SunPower Systems Sarl
c/o SunPower Corporation
3939 N. 1st Street
San Jose, CA 95134
U.S.A.
Attention: General Counsel
Facsimile: 408-240-5400

(b) To the JVC:

SunPower Malaysia Manufacturing SDN.BHD.
Kawasan Perindustrian Rembia
Mukim Sungai Petai Rembia, Alor Gajah
76100 Melaka
Malaysia
Attention: Chief Executive Officer
Facsimile: 60-63-16-2811

with a copy (which shall not constitute notice) to:

AU Optronics Singapore Pte. Ltd.
c/o AU Optronics Corporation
No.1, JhongKe Rd.
Central Taiwan Science Park
Taichung 40763, Taiwan
R.O.C.
Attention: James Chen, Senior Associate VP, PV BD
Facsimile: 886-4-2460-8077

(c) To AUO:

AU Optronics Singapore Pte. Ltd.
c/o AU Optronics Corporation
No.1, JhongKe Rd.

Central Taiwan Science Park
Taichung 40763, Taiwan
R.O.C.
Attention: James Chen, Senior Associate VP, PV BD
Facsimile: 886-4-2460-8077

13.13 **Governing Law and Dispute Resolution**. This Agreement and all disputes arising out of or in connection with this Agreement shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of California, without regard to conflicts of laws principles or the U.N. Convention on Contracts for the International Sale of Goods. Any disputes incapable of being resolved by mutual agreement of the JVC (with the written consent of AUO) and Buyer shall be handled in accordance with Section 18.2 (Arbitration) of the JVA; provided, however, that the JVC may not take any action with respect to any such disputes or arbitration or settlement thereof without the written consent of AUO. Pending resolution of any dispute, the JVC agrees to continue to fabricated and deliver Products under the terms of this Agreement as directed by Buyer.

13.14 **Expenses**. Except as specifically provided for in this Agreement, each of the Parties shall bear its respective expenses, costs and fees (including attorneys' fees) in connection with the transactions contemplated hereby, including the preparation, execution and delivery of this Agreement and an exhibits hereto and compliance herewith and therewith, whether or not the transactions contemplated hereby or thereby shall be consummated.

[Signature pages follow]

***IN WITNESS WHEREOF*, the Parties have caused this Supply Agreement to be signed by their duly authorized representatives, and the Parties hereby agree to the above terms and conditions of this Supply Agreement and intend to be legally bound thereby.**

SUNPOWER MALAYSIA MANUFACTURING SDN.BHD.

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: Director

SUNPOWER SYSTEMS SARL

By: /s/ Christian Tamisier

Name: Christian Tamisier

Title: Director

By: /s/ Pascal Böni

Name: Pascal Böni

Title: Director

AU OPTRONICS SINGAPORE PTE. LTD.

By: /s/ James CP Chen

Name: James Chen

Titl e: Director

(Signature Page to SPTL Agreement)

Attachments

Schedule 1 - Definitions

Exhibit A - Product & Service Pricing

Exhibit B - Post-Exit Transaction Terms and Conditions

Exhibit C - Customs Requirements

SCHEDULE 1

DEFINITIONS

The following defined terms shall have the meanings set forth below.

1. "**Ac tual Monthly Cost**" shall have the meaning set forth on Exhibit A.
2. "**Affiliate**" of a Party shall mean another person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such Party.
3. "**Annual Demand Forecast**" shall have the meaning set forth in Section 2.2.
4. "**Agreement**" shall have the meaning set forth in the introductory paragraph.
5. &ld quo;**AUO**" shall have the meaning set forth in the introductory paragraph.
6. "**AUO Supply Agreement**" shall have the meaning set forth in Section 2.2.
7. "**AUO Unsubscribed Annual Forecast**" shall have the meaning set forth in Section 2.2.
8. "**AUO Unsubscribed Mid-Year Forecast**" shall have the meaning set forth in Section 2.5.
9. "**Buyer**" shall have the meaning set forth in Section 1.1.
10. "**ECN**" shall have the meaning set forth in Section 5.1(a).
11. "**Effective Date**" shall have the meaning set forth in the introductory paragraph.
12. "**Epidemic Failure Event**" shall mean the occurrence of an Epidemic Failure.
13. "**Epidemic Failure**" shall mean Product failures (i) having the same or similar cause, verified by Buyer, or an independent Third Party on behalf of Buyer (ii) occurring within *** years after the date of delivery of the Product (iii) resulting from defects in materials, workmanship, manufacturing process or design or failure to conform with the Specifications, (iv) having a one month failure rate equal to or in excess of the rate calculation defined as *** times the most current, consecutive *** month (or any other mutually agreed upon, currently monitored duration) rolling average failure rate where the failure rate is calculated by dividing the number of unit fails by the unit population or installed base (Failure Rate = N unit failures / N unit population), (v) having a failure rate of *** percent (***%) or higher, or (vi) wherein it has been determined that product poses an environmental, safety, or health issue.
14. "**Event of Default**" shall have the meaning set forth on Exhibit B.
15. "**FCC**" shall mean the United States Federal Communications Commission.
16. "**FCPA**" shall mean the United States Foreign Corrupt Practices Act.

***** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION***

17. “**Initial Annual Operating Plan**” shall have the meaning set forth in Section 2.1.

18. “**Initial Mid-Year Operating Plan**” shall have the meaning set forth in Section 2.4.

19. “**Initial Term**” shall have the meaning set forth in Section 12.1.

20. “**Final Annual Operating Plan**” shall have the meaning set forth in Section 2.3.

21. “**Final Mid-Year Operating Plan**” shall have the meaning set forth in Section 2.6.

22. “**JVA**” shall have the meaning set forth in the Recitals.

23. “**JVC**” shall ha ve the meaning set forth in the introductory paragraph.

24. “**Mid-Year Demand Forecast**” shall have the meaning set forth in Section 2.5.

25. “**Monthly Demand Allocation**” shall have the meaning set forth in Section 2.7.

26. “**Offspec Cells**” shall have the meaning set forth in Section 2.10.

27. “**Party**” and “**Parties” shall have the meanings set forth in the introductory paragraph.**

28. “**Payment Due Date**” shall have the meaning set forth in Section 8.1.

29. “**Product(s)**” shall have the meaning set forth in the Recitals.

30. “**Product Warranty**” shall have the meaning set forth on Exhibit B.

31. “**Projected Monthly Cost**” shall have the meaning set forth on Exhibit A.

32. “**Purchase Order**” shall mean Buyer written or electronic purchase order that Buyer may place as specified in this Agreement or otherwise on an as-needed basis. Each Purchase Order will indicate the price(s), part number(s), quantity(s), delivery date(s), and destination(s) of the requested Product(s).

33. “**Representatives**” include a Party's Affiliates, as well as a Party and its Affiliates' directors, officers, employees, agents and advisors (including, without limitation, attorneys, accountants, consultants, bankers, financial advisors or lending institutions.

34. “**Specifications**” shall mean (a) the specifications and or assembly drawings for the Products set forth in the applicable exhibit, and (b) references within this Agreement to controlled specifications. It is the obligation of the JVC to reques t any referenced documents or specifications with this Agreement and amended Exhibits.

35. “**SPSW**” shall have the meaning set forth in the introductory paragraph.

36. “**SPSW Annual Demand Forecast**” shall have the meaning set forth in Section 2.2.

37. “**SPSW Mid-Year Demand Forecast**” shall have the meaning set forth in Section 2.5.

38. “**SPSW Unsubscribed Annual Forecast**” shall have the meaning set forth in Section 2.2.

39. “**SPSW Unsubscribed Mid-Year Forecast**” shall have the meaning set forth in Section 2.5.

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40. “**SPTL**” shall have the meaning set forth in the Recitals.

41. **<u>Supply Constraint</u>**” shall mean a materials or capacity constraint that could adversely affect the JVC's ability to meet the quantity requirements specified in the Purchaser Order, and/or Monthly Demand Allocation for Products.

42. “**<u>Value Engineering Change</u>**” means, for the Product, an alternative technical and/or engineering solution that alters the specification of the Product and provides equivalent or better functionality at a lower cost.

EXHIBIT A
PRODUCT PRICING

The pricing model under this Agreement shall be an "Open Book" model, and therefore the JVC agrees to disclose to SPSW and AUO all costs incurred in connection with or under this Agreement, and the JVC shall provide, upon request by either of SPSW and AUO and at a mutually agreed upon frequency, system generated documentation to substantiate such costs as they were actually incurred.

Pricing for Product to be offer ed to Buyer shall be on a per Watt basis set prior to the beginning of each month. At the end of the month, a per Watt True-Up Amount shall be calculated and applied as described below. Notwithstanding anything contained in this Exhibit A to the contrary, through the end of the second fiscal quarter of 2011, pricing and any per Watt True-Up Amount for Product shall be set and calculated on a quarterly basis.

The pricing set prior the beginning of any given month with respect to Buyer shall be determined as follows:

Price per Watt = ((Projected per Watt Fixed Cost + Projected per Watt Variable Costs) * (1 + Premium Percentage)),

where:

- Projected per Watt Fixed Cost allocated to Buyer is described below;
- Projected per Watt Variable Cost allocated to Buyer is described below;
- "***Projected Monthly Cost***" is defined as the sum of the Projected per Watt Fixed Cost and the Projected per Watt Variable Cost; and
- Premium Percentage shall equal ***% for ***, and shall equal ***% starting in ***, subject to adjustment as set forth below.

The Projected per Watt Fixed Cost to be allocated to Buyer for any given month shall be determined as follows:

Projected per Watt Fixed Cost = Total Fixed Costs * ((SPSW Demand Forecast) + (Net Unsubscribed Forecast)) / (Initial Capacity Projection * SPSW Demand Forecast),

where:

- Total Fixed Costs is the projected Fixed Cost to be incurred by the JVC in such month in producing the Product;
- SPSW Demand Forecast is the total amount of Product (in Watts) to be purchased by Buyer for such month, as set forth in Buyer's Annual Demand Forecast or Mid-Year Demand Forecast, as applicable;
- Net Unsubscribed Forecast is the total amount of Product (in Watts) of any SPSW Unsubscribed Annual Forecast or SPSW Unsubscribed Mid-Year Demand Forecast net

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of any amount subscribed to by AUO, as applicable, subscribed for by Buyer with respect to such month; and

- Initial Capacity Projection is the projected amount of Product (in Watts) to be produced by the JVC for such month, as set forth in the Initial Annual Operating Plan or the Initial Mid-Year Operating Plan, as applicable, for such month.

The Projected per Watt Variable Cost to be allocated to Buyer for any given month shall be determined as follows:

Projected per Watt Variable Cost = Total Variable Costs / Monthly Production Forecast,

where:

- Total Variable Costs is the projected Variable Cost to be incurred by the JVC in such month in producing the Product;
- Monthly Production Forecast is the projected amount of Product (in Watts) to be produced by the JVC in such month in producing the Product.

Both Variable and Fixed Costs shall include manufacturing and operating expenses of the JVC, but shall exclude interest expenses, and research and development expenses. Before the JVC incurs any amortization of intangible assets and stock based compensation expenses SPSW and AUO will negotiate in good faith on the treatment of such expenses for transfer pricing purposes; <u>provided</u>, <u>however</u>, that any stock based compensation expenses incurred by the JVC resulting from equity awards provided by Affiliates of either SPTL or AUO to employees of the JVC shall be excluded for transfer pricing purposes. Fixed Costs also shall include the following expenses of the JVC: depreciation, facilities, indirect labor, information technology, expensed tooling and ***% of the electricity costs. <u>Annex 1</u> sets forth an example which illustrates the Fixed and Variable Cost allocation between Buyer and AUO. All costs incurred or to be incurred by the JVC shall be determined in accordance with International Financial Reporting Standards.

Premium Percentage

If the JVC reduces the Projected Monthly Cost for the first month of *** by at least ***% compared to the Actual Monthly Cost (as defined below) for the first month of ***, the Premium Percentage for the first month of *** shall equal ***%. During each month thereafter, if the JVC reduces the Projected Monthly Cost for such month by at least ***% compared to the Actual Monthly Cost for the month occurring one year prior to such month, the Premium Percentage shall equal ***% for such month; otherwise, the Premium Percentage shall equal ***% for such month.

During any month in which the projected per Watt Fixed and Variable Costs, in the aggregate, to be incurred by the JVC in producing Product is less than $/Wp, if the JVC reduces the Projected Mont hly Cost for such month by at least ***% compared to the Actual Monthly Cost for the month occurring one year prior to such month, the Premium Percentage for such month shall equal ***%; otherwise, the Premium Percentage shall equal ***% for such month.***

True-Up Amount

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At the end of each month, if the actual per Watt Fixed and per Watt Variable Costs, in the aggregate, incurred by the JVC in producing Product (the "Actual Monthly Cost") exceeds or is less than the per Watt Projected Monthly Cost for such month, the per Watt True-Up Amount shall equal the difference between the per Watt Actual Monthly Cost and the per Watt Projected Monthly Cost for such month. Any per Watt True-Up Amount will be passed

along to Buyer and AUO for their respective aggregate Watts of purchased Product during that month.

*After installation of the full initial capacity of the Fab 3 as defined in the Business Plan, proposals by the JVC or any Shareholder to spend greater than $*** in capital expenditures that serves to reduce the Fixed and/or Variable Costs to be incurred by the JVC in producing Product shall include a pricing adjustment mechanism as determined and defined by the JVC to incentivize the Shareholders to approve such expenditures. Starting the first month of 2017, AUO and SPTL (or its applicable Affiliate) will negotiate in good faith a potential change in the Premium Percentage to compensate for reductions in depreciation expenses for the initial capital expenditures.*

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EXHIBIT B

POST-EXIT TRANSACTION TERMS AND CONDITIONS

In the event that SPTL or its Affiliates no longer own any shares of the JVC, the following terms and conditions shall apply:

1. **PRICING**.

1.1 **Cost Reductions**. It is agreed and acknowledged that the pricing shall be calculated as described in Exhibit A to this Agreement and the JVC will work in good faith to achieve cost reductions on all materials and manufacturing process costs. The JVC will provide to Buyer an anticipated twelve (12) month cost reduction plan on a monthly basis. Allocation of costs savings shall be as follows:

(a) **Material Cost Savings**. Material cost savings developed by the JVC and accepted by Buyer will be retained by the JVC for the month in which the JVC achieved the cost savings, and thereafter, the JVC shall pass on to Buyer the cost savings through a Product price reduction.

(b) **Value Engineering**. If a Value Engineering Change is developed by the JVC and approved by Buyer, the cost savings shall be retained by the JVC for the month in which the JVC implemented the Value Engineering Change, plus five (5) succeeding quarters, and thereafter, the JVC will pass on the cost savings to Buyer through a Product price reduction. If a Value Engineering Change is developed by Buyer, the associated cost savings shall be passed on to Buyer immediately upon implementation. If the Value Engineering Change is jointly developed by Buyer and the JVC, the Parties will negotiate in good faith an equitable allocation of the cost savings which shall, in all cases, pass to Buyer through a Product price reduction no later than the next month following the month in which the Value Engineering Change was implemented. Value Engineering Changes to the Product, where Buyer is the primary design provider, shall be owned by Buyer.

(c) **Sub-tier Components**. Upon the effective date of any cost redu ction in a sub-tier component, the JVC shall immediately pass on to Buyer one hundred percent (100%) of the cost savings on a forward looking, weighted average basis or as mutually agreed by the Parties.

1.2 **Non-approved Charges**. Buyer shall not be liable to the JVC for any overtime charges, freight charges or component product price variances incurred by the JVC as the result of factors including, but n ot limited to, component purges and stop-shipments to the extent attributable to the JVC. Any other extraordinary charges must be submitted by the JVC to Buyer in writing in advance for approval.

2. **LEAD-TIME; DELIVERY**.

2.1 **Delivery Delay Penalty**. Upon acceptance of the Purchase Order by the JVC, all deliveries are to be made according the committed delivery schedule. In the event of late delivery of more than *** days from the committed delivery date, the JVC shall pay as liquidated damages an amount equal to ***% of the value of the Products delayed for every

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two weeks of delay up to a maximum of ***%. The foregoing liquidated damages address late delivery shipments only, are independent of, and in addition to, the JVC's liability (if any), and Buyer's corresponding ability to recover damages, for the JVC's failure to satisfy its obligations under this Agreement and are attributed solely to the JVC. The Parties acknowledge that such payment are intended to represent liquidated damages and not serve as a penalty, and are agreed upon as a reasonable estimation of damages Buyer would incur as a result of delayed deliveries of Products that satisfy the applicable Product Specifications.

2.2 **Extraordinary Transportation for Late Deliveries**. If the JVC will not, or is not reasonably likely to, deliver Product on the applicable delivery date through no fault of Buyer, after mutual consultation about the proper allocation of the expenses incurred or to be incur red as a result of the extraordinary transportation, the JVC shall use any extraordinary transportation, including air transportation, to deliver Product at the earliest possible date.

2.3 **Inspection before Delivery**. Buyer may, in its sole discretion, but not more than twice a year, perform a source inspection of the Products at the JVC's facility. The applicable testing and inspection process shall be s et forth in the applicable Product Specification. The source inspection shall be at the JVC's facility and shall be made within thirty (30) days after the Products are available and ready for inspection, provided that the JVC delivers notice to Buyer that the Product shall be ready for source inspection as soon as practicable and in any event at least thirty (30) days prior to the date when Products are expected to be available and ready for inspection. Should the Product fail the initial inspection in accordance with the mutually agreed inspection standard before delivery, the JVC shall reimburse Buyer for the additional actual costs, including airfare, meals, and lodging, incurred by Buyer arising from any additional inspection. The JVC shall be responsible for its own additional costs incurred. Buyer's Representatives may witness any test necessary or appropriate to demonstrate the performance of Products. Upon Buyer's request, the JVC shall provide any relevant equipment performance test data. Buyer's ap proval for release shall not constitute a waiver of its right to inspect Products after delivery to the Buyer's facility.

3. **WARRANTIES**.

3.1 **The JVC Warranty Term**. The JVC represents and warrants that all Products delivered to Buyer hereunder shall comply with the mutually agreed upon warranty terms (the "***Product Warranty***") for the warranty period set forth therein. The parties shall discuss and agree in good faith on the warranty terms comparable to the general industry standard.

4. **EVENTS OF DEFAULT**.

4.1 **Events of Default**. The occurrence of any of the following shall constitute an "***Event of Default***" by the JVC under this Agreement: (a) if the representations and warranties of the JVC are materially incorrect or inaccurate, and the JVC fails to remedy such misstatements or inaccuracies within thirty (30) days of delivery of notice of such misstatements or inaccuracies by SPSW; (b) if the JVC fails to comply with the terms of this Agreement, and such failure is not cured within thirty (30) days of delivery of notice of such failure by SPSW; or (c) if the JVC becomes subject to an assignment for the

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benefit of creditors, files a petition for relief under the U.S. Bankruptcy Code or similar law or regulation, or is subject of a petition for relief under the U.S. Bankruptcy Code or similar law or regulation, filed by its creditors and such petition is not dismissed within thirty (30) days.

4.2 **<u>Rights upon Event of Default</u>**. Upon an Event of Default by the JVC, SPSW may immediately terminate this Agreement and/or any outstanding Purchase Orders by sending notice of its intent to the JVC. Upon termination of this Agreement, SPSW shall be entitled to receive from the JVC payment for all actual damages incurred, subject to Section 12.3 of this Agreement, and all outstanding amounts owed by the JVC to SPSW shall accelerate and become due and payable; <u>provided, however, that outstanding transactions under accepted Purchase Orders which are not terminated shall survive termination until completed.</u>

EXHIBIT C

CUSTOMS REQUIREMENTS

[N/A]

Annex 1

TRANSFER PRICING PROCESS

						NOTES
FORECAST						
Initial Forecast						
Total Production Forecast (MW)	1	50.0	50.0	50.0	50.0	Forecasted by JV
Party A Allocated %	2	0.2	0.2	0.2	0.2	Based on contractual amounts
Party S Allocated %	3	0.8	0.8	0.8	0.8	Based on contractual amounts
Party A Allocated MW	4	10.0	10.0	10.0	10.0	Equals Row 1 * Row 2
Party S Allocated MW	5	40.0	40.0	40.0	40.0	Equals Row 1 * Row 3
Final Production Plan						
Total Production (MW)	6	50.0	45.0 45.0		37.5	MW based on demand submitted
Party A Demand (MW)	7	10.0	5.0	15.0	7.5	MW based on demand submitted
Party S Demand (MW)	8	40.0	40.0	30.0	30.0	MW based on demand submitted
Party A Unsubscribed MW	9	0.0	5.0	0.0	2.5	Equals shortfall minus any MW claimed by partner
Party S Unsubscribed MW	10	0.0	0.0	5.0	10.0	Equals shortfall minus any MW claimed by partner
Cost Allocation						
Party A - % of Variable Costs	11	0.2	0.11	0.33	0.2	Equals Row 7 / Row 6
Party S - % of Variable Costs	12	0.8	0.89	0.67	0.8	Equals Row 8 / Row 6
Party A - % of Fixed Costs	13	0.2	0.2	0.3	0.2	Equals (Row 7 + Row 9) / Row 1
Party S - % of Fixed Costs	14	0.8	0.8	0.7	0.8	Equals (Row 8 + Row 10) / Row 1
Standard Costs						
<u>Total Projected Costs</u>						
Total Variable Costs	15	***	***	***	***	Assumes ***/W variable costs
Total Fixed Costs	16	***	***	***	***	Assumes ***/W fixed costs for full production
Total Costs	17	***	***	***	***	Equals Row 15 + Row 16
Total Costs/W	18	***	***	***	***	Equals Row 17 / Row 6
Fully Production Cost/W	19	***	***	***	***	Used to determine cost improvement trigger

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Party A						
Total Variable Costs	20	***	***	***	***	Equals Row 11 * Row 15
Total Fixed Costs	21	***	***	***	***	Equals Row 13 * Row 16
Total Costs	22	***	***	***	***	Equals Row 20 + Row 21
Total Costs/W	23	***	***	***	***	Equals Row 22 / Row 7
Party S						
Total Variable Costs	24	***	***	***	***	Equals Row 12 * Row 15
Total Fixed Costs	25	***	***	***	***	Equals Row 14 * Row 16
Total Costs	26	***	***	***	***	Equals Row 24 + Row 25
Total Costs/W	27	***	***	***	***	Equals Row 26 / Row 8
Transfer Price						
Mark-up	28	***	***	***	***	Assumption - based on cost improvements
Party A Transfer Price	29	***	***	***	***	Equals Row 23 * (1 + Row 28)
Party S Transfer Price	30	***	***	***	***	Equals Row 27 * (1 + Row 28)
True-UP						
Quarter-end True-up	31	***	***	***	***	Assumption
Net Party A Transfer Price	32	***	***	***	***	Equals Row 29 + Row 31
Net Party S Transfer Price	33	***	******		***	Equals Row 30 + Row 31

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LICENSE AND TECHNOLOGY TRANSFER AGREEMENT

This LICENSE AND TECHNOLOGY TRANSFER AGREEMENT ("A greement") is made and entered into as of July 5, 2010, by and among (i) SunPower Technology, Ltd., a company organized under the laws of the Cayman Islands ("SPTL"); (ii) AU Optronics Singapore Pte. Ltd., a company organized under the laws of Singapore ("AUO"); and (iii) SunPower Malaysia Manufacturing SDN.BHD., a company organized under the laws of Malaysia (the "JVC"). Each of SPTL, AUO and the JVC may be referred to herein as a "Party" and together as the "Parties."

RECITALS

WHEREAS, the Parties and AU Optronics Corporation, a company organized under the laws of Taiwan, R.O.C., have entered into that certain Joint Venture Agreement dated May 27, 2010 ("JVA");

WHEREAS, pursuant to the JVA, the business purposes of the JVC are to manufacture, sell and distribute Solar Cells (as defined below) to SPTL and AUO;

WHEREAS, the Parties desire to enter into an agreement pursuant to which each of SPTL and AUO grants to the JVC certain rights under Intellectual Property (as defined below) relating to the manufacture of Solar Cells, and the JVC grants to each of SPTL and AUO certain rights to other Intellectual Property; and

WHEREAS, one of the conditions to the effectiveness of the JVA is that the Parties shall have entered into this Agreement.

NOW, THEREFORE, in furtherance of the foregoing premises and in consideration of the mutual covenants and obligations hereinafter set forth and in the JVA, and based on the consideration set forth in the JVA, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, do agree as follows:

ARTICLE I

DEFINITIONS

Capitalized terms not specifically defined in this Agreement shall have the meanings assigned to them in the JVA.

1.1 "AUO Background Intellectual Property" means AUO Background Patents and AUO Background Technology.

1.2 "AUO Background Patents" means those Patents Controlled by AUO or any of its Affiliates as of the Closing Date applicable to the JVC Business.

1.3 &ldq uo;AUO Background Technology" means all Intellectual Property (excluding Patents) and Software Controlled by AUO or any of its Affiliates as of the Closing Date applicable to the JVC Business.

1.4 "AUO Field" means industrial process streamlining and manufacturing engineering, including supply chain management and logistics, system analysis and techniques, production planning and control, facilities design and work space design, statistical process control, operations management, productivity improvement and materials management. For purpose of clarity, the AUO Field does not include back contact, back junction, monocrystalline photovoltaic solar cell devices, including the design and manufacturing thereof .

1.5 "Controlled" means, with respect to any Intellectual Property, possession by a Party of the ability (whether by ownership, license or otherwise) to grant access, a license or a sublicense to such Intellectual Property without violating the terms of any agreement or other arrangement with any Third Party or requiring any payment to a Third Party.

1.6 "Have Made Rights" means the right to engage any third party to research, develop, design and/or manufacturer Solar Cells.

1.7 "Improvement" means any improvement(s), enhancement(s), refinement(s), derivative(s), modification(s), evolution(s) or combination(s) or other new invention or discovery, whether patentable or unpatentable, deriving from or otherwise relating to, in whole or in part, any of the SPTL Background Intellectual Property and/or the AUO Background Intellectual Property that is made, developed, invented, conceived and/or reduced to practice.

1.8 "Intellectual Property" means the rights associated with or arising out of any of the following: (i) Patents; (ii) Trade Secrets; (iii) cop yrights, copyrightable works, rights in databases, data collections, "moral" rights, mask works, copyright registrations and applications therefor and corresponding rights in works of authorship; and (iv) any similar, corresponding or equivalent rights to any of the foregoing any where in the world. For the avoidance of doubt, Intellectual Property expressly excludes Trademarks.

1.9 "Invented" means made, developed, invented, conceived and/or reduced to practice.

1.10 "JDP AUO Development" means any Improvement to the AUO Background Intellectual Property or any Intellectual Property applicable to the AUO Field (but not the SPTL Field), in each case that is Invented pursuant to a Joint Development Program commenced under a JDP Agreement (as defined in Section 3.7 below) with an effective date before the earlier of (i) the second anniversary of the Closing Date or (ii) the termination of the JVA.

1.11 "JDP SPTL Development" means any Improvement to the SPTL Background Intellectual Property or any Intellectual Property applicable to the SPTL Field (but not the AUO Field), in each case that is Invented pursuant to a Joint Development Program commenced under a JDP Agreement with an effective date before the earlier of (i) the second anniversary of the Closing Date or (ii) the termination of the JVA.

1.12 "Joint Development Program" or "JDP" means a development program for any Step Modification.

1.13 "Joint Invention" means any Intellectual Property Invented jointly by or on behalf of the JVC and/or any of its subsidiaries and either or both of AUO and SPTL and/or any *of their respective Affiliates during the Term that is not a JDP SPTL Development, JVC SPTL Improvement, JDP AUO Development or JVC AUO Improvement.*

1.14 "JVA" has the meaning ascribed to it in the Recitals hereto.

1.15 "JVC AUO Improvement" means any Improvement to the AUO Background Intellectual Property or any Intellectual Property applicable to the AUO Field (but not the SPTL Field), in each case that is Invented by or on behalf of the JVC or any of its subsidiaries before the earlier of (i) the second anniversary of the Closing Date or (ii) the termination of the JVA.

1.16 "JVC Business" means the manufacture, sale and distribution of Solar Cells to SPTL and/or AUO, expressly excluding the upstream polysilicon, ingot, wafer manufacturing and downstream module manufacturing and systems businesses.

1.17 "JVC Development" means any Intellectual Property Invented by or on behalf of the JVC or any of its subsidiaries during the Term or pursuant to a Joint Development Program that is not a JDP AUO Development, JVC AUO Improvement, JDP SPTL Development, JVC SPTL Improvement or Joint Invention.

1.18 "JVC SPTL Improvement" means any Improvement to the SPTL Background Intellectual Property or any Intellectual Property applicable to the SPTL Field (but not the AUO Field), in each case that is Invented by or on behalf of the JVC or any of its subsidiaries before the earlier of (i) the second anniversary of the Closing Date or (ii) the termination of the JVA.

1.19 "Party(ies)" has the meaning ascribed to it in the Preamble hereto.

1.20 "Patents" means all domestic and foreign patents, patent applications and design registrations (including letters patent, industrial designs and inventor's certificates), together with all reissuances, divisionals, continuations, continuations-in-part, revisions, renewals, extensions, and reexaminations thereof, and any identified invention disclosures.

1.21 "Recipient" has the meaning ascribed to it in Section 5.1 below.

1.22 "Software" means all computer software and code, including assemblers, applets, compilers, source code, object code, development tools, design tools, user interfaces and data, in any form or format, however fixed.

1.23 "Solar Cells" means flat plate solar cells using high-efficiency back-contact, back-junction technology.

1.24 "SPTL Background Intellectual Property" means SPTL Background Patents and SPTL Background Technology.

1.25 "SPTL Background Patents" means all those Patents applicable to the JVC Business for SPTL Generation C technology, as set forth in a list to be mutually agreed upon in writing by the Parties, which list shall be supplemented if any errors or omissions are discovered.

1.26 "SPTL Background Technology" means all Intellectual Property (excluding Patents) and Software Controlled by SPTL or any of its Affiliates as of the Closing Date applicable to the JVC Business for SPTL Generation C technology.

1.27 "SPTL Field" means back contact, back junction, monocrystalline photovoltaic solar cell devices, including the design and manufacturing thereof.

1.28 "Step Modification" means any (i) production tool modifications or (ii) changes in sources of production tools relating to any production step or any production step modification or elimination.

1.29 "Territory" means Malaysia.

1.30 "Third Party" means any entity other than SPTL, AUO, an Affiliate of SPTL or AUO or the JVC or any of its subsidiaries.

1.31 "Trade Secrets" means trade secret rights and corresponding rights in Confidential Information and other non-public information (whether or not patentable), including ideas, formulas, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques, testing information, research and development information, inventions, invention disclosures, unpatented blueprints, drawings, specifications, designs, plans, proposals and technical data, business and marketing plans, market surveys, market know-how and customer lists and information.

1.32 "Trademarks" means trademarks, service marks, logos, trade dress and trade names and domain names indicating the source of goods or services, and other indicia of commercial source or origin (whether registered, common law, statutory or otherwise), registrations and applications to register the foregoing anywhere in the world and all goodwill associated therewith.

ARTICLE II

ASSIGNMENT

2.1 JDP SPTL Developments and JVC SPTL Improvements. The JVC hereby assigns and transfers to SPTL, and its successors and assigns, all worldwide right, title and interest in and to any and all JDP SPTL Developments and JVC SPTL Improvements, subject to the license expressly granted by SPTL to the JVC under Section 3.1(a)(i) below. In the event that AUO has or acquires any right, title or interest in or to any JDP SPTL Development(s) and/or JVC SPTL Improvement(s), AUO hereby assigns and transfers to SPTL, and its succ essors and assigns, its entire worldwide right, title and interest in and to any and all such JDP SPTL Developments and JVC SPTL Improvements, subject to the license expressly granted by SPTL to AUO under Section 3.3(b) below.

2.2 JDP AUO Developments and JVC AUO Improvements. The JVC hereby assigns and transfers to AUO, and its successors and assigns, all worldwide right, title and interest in and to any and all JDP AUO Developments and JVC AUO Improvements, subject to the license expressly granted by AUO to the JVC under Section 3.1(b)(i) below. In the event t hat SPTL has *or acquires any right, title or interest in or to any JDP AUO Development(s) and/or JVC AUO Improvement(s), SPTL hereby assigns and transfers to AUO, and its successors and assigns, its entire worldwide right, title and interest in and to any and all such JDP AUO Developments and JVC AUO Improvements, subject to the license expressly granted by AUO to SPTL under Section 3.2(b) below.*

2.3 <u>Further Assurances</u>. The JVC and each of AUO and SPTL, as applicable, shall, without further consideration, execute and deliver any assignments or other documents and take and perform any other actions reasonably necessary to vest, perfect or confirm of record or otherwise, in SPTL and AUO, as applicable, the ownership rights set forth in Sections 2.1 and 2.2 above and Section 6.4(b) below and to assist SPTL and AUO, as applicable, or their respective designees, to obtain and from time to time enforce and defend SPTL's and AUO's respective rights under Sections 2.1 and 2.2 above, and to execute all documents reasonably necessary for SPTL or AUO, as applicable, or their respective designees, to do so.

ARTICLE III

<u>LICENSES; RESTRICTIONS; JOINT DEVELOPMENT PROGRAMS</u>

3.1 <u>Licenses Granted to the JVC</u>.

(a) <u>SPTL Background Intellectual Property, JDP SPTL Developments and JVC SPTL Improvements</u>.

(i) <u>License</u>. SPTL, on behalf of itself and its Affiliates, hereby grants the JVC a non-exclusive, non-transferable, non-assignable, royalty-free license, without the right to sublicense, under the SPTL Background Intellectual Property, JDP SPTL Developments an d JVC SPTL Improvements, to: (1) manufacture Solar Cells solely in connection with the JVC Business and solely in the Territory; and (2) offer for sale and sell Solar Cells manufactured pursuant to subsection (1) of this Section 3.1(a)(i) solely to SPTL (or applicable Affiliate thereof) and AUO (or applicable Affiliate thereof) pursuant to the terms of the SPTL Supply Agreement or the AUO Supply Agreement, respectively. The license granted in this Section 3.1(a)(i) shall expressly exclude any Have Made Rights.

(ii) <u>Transfer and Implementation</u>. SPTL shall assist the JVC in the tr ansfer and integration of the SPTL Background Technology into the JVC's manufacturing operations as set forth in Section 2.4(b)(vi) of the JVA.

(b) <u>AUO Background Intellectual Property, JDP AUO Developments and JVC AUO Improvements</u>.

(i) <u>License</u>. AUO, on behalf of itself and its Affiliates, hereby grants the JVC a non-exclusive, non-transferable, non-assignable, royalty-free license, without the right to sublicense, under the AUO Background Intellectual Property, JDP AUO Developments and JVC AUO Improvements, to: (1) manufacture Solar Cells solely in connection with the JVC Business and solely in the Territory; and (2) offer for sale and sell Solar Cells manufactured pursuant to subsection (1) of this Section 3.1(b)(i) solely to SPTL (or applicable Affiliate

thereof) and AUO (or applicable Affiliate thereof) pursuant to the terms of the SPTL Supply Agreement or the AUO Supply Agreement, respectively. The license granted in this Section 3.1(b)(i) shall expressly exclude any Have Made Rights.

(ii) Transfer and Implementation. AUO shall assist the JVC in the transfer and integration of the AUO Background Technology into the JVC's manufacturing operations as set forth in Section 2.4(c)(iv) of the JVA.

3.2 Licenses Granted to SPTL.

(a) JVC Developments and Joint Inventions. The JVC, on behalf of itself and its subsidiaries, hereby grants SPTL a non-exclusive, worldwide, perpetual, non-terminable (except as expressly set forth in Section 6.2 bel ow), fully paid-up, royalty-free license, with the right to sublicense, under the JVC Developments and the JVC's rights in and to any Joint Inventions not jointly owned by SPTL for any and all purposes. The license granted in this Section 3.2(a) shall expressly include Have Made Rights.

(b) JDP AUO Developments and JVC AUO Improvements. AUO, on behalf of itself and its Affiliates, hereby grants SPTL a non-exclusive, worldwide, perpetual, non-terminable (except as expressly set forth in Section 6.2 below), fully paid-up, royalty-free license, with the right to sublicense, under t he JDP AUO Developments and JVC AUO Improvements for any and all purposes. The license granted in this Section 3.2(b) shall expressly include Have Made Rights.

3.3 Licenses Granted to AUO.

(a) JVC Develop ments and Joint Inventions. The JVC, on behalf of itself and its subsidiaries, hereby grants AUO a non-exclusive, worldwide, perpetual, non-terminable (except as expressly set forth in Section 6.2 below), fully paid-up, royalty-free license, with the right to sublicense, under the JVC Developments and the JVC's rights in and to any Joint Inventions not jointly owned by AUO for any and all purposes, but expressly excluding any and all rights, including any use or practice, in connection with the manufacturing of photovoltaic solar cells with greater than twenty percent (20%) efficiency within ten (10) years of the Closing Date. The license granted in this Section 3.3(a) shall expressly include Have Made Rights.

(b) JDP SPTL Developments and JVC SPTL Improvements. SPTL, on behalf of itself and its Affiliates, hereby grants AUO a non-exclusive, worldwide, perpetual, non-terminable (except as expressly set forth in Section 6.2 below), fully paid-up, royalty-free license, with the right to sublicense, under the JDP SPTL Developments and JVC SPTL Improvements for any and all purposes, but expressly excluding any and all rights, including any use or practice, in connection with the manufacturing of photovoltaic solar cells with greater than twenty percent (20%) efficiency within ten (10) years of the Closing Date. The license granted in this Section 3.3(b) shall expressly include Have Made Rights.

3.4 Limitations and Obligations.

(a) Each Party agrees to use its commercially reasonable efforts to neither perform nor permit any act which reasonably could be expected to jeopardize or be detrimental to the validity, enforceability or scope of the owning Party's rights licensed to the other Party(ies) hereunder; provided, however, that nothing contained herein shall be construed as obligating any owning Party to obtain, maintain or enforce any Intellectual Property rights licensed hereunder.

(b) Nothing herein shall be construed as granting any Party, by implication, estoppel or otherwise, any license or other right in, to or under any Intellectual Property or Software, including any license or other right in, to or under any Patent(s) held by a Party that may block and/or limit the exercise of the ownership rights granted in Article II above and/or the license rights granted in this Article III, except for those rights expressly granted hereunder. As among the Parties: (i) SPTL shall have sole and exclusive ownership of the SPTL Background Intellectual Property, JDP SPTL Developments and JVC SPTL Improvements; (ii) AUO shall have sole and exclusive ownership of the AUO Background Intellectual Property, JDP AUO Developments and JVC AUO Improvements; (iii) the JVC shall have sole and exclusive ownership of the JVC Developments; and (iv) the inventing Parties (with inventorship being determined under Unit ed States patent law) shall own an undivided interest in and to each Joint Invention, and except to the extent a particular Party is restricted by the licenses granted to the other Party and/or the other covenants contained in this Agreement or the JVA, (1) each joint owner shall be entitled to practice, and grant to Third Parties and its Affiliates, in the case of SPTL and AUO, or its subsidiaries, in the case of the JVC, the right to use and practice all Joint Inventions to which it is a joint owner without restriction or an obligation to account to the other joint owner(s), and (2) the other joint owners shall consent, without additional consideration, to any and all such licenses.

(c) Except as expressly set forth herein, none of the Parties makes any warranty or representation to any other Party (i) as to the validity, enforceability or scope of any class or type of any of the Intellectual Property assigned or licensed hereunder, or (ii) that any manufacture, sale, lease, use or other disposition of any Solar Cells using or incorporating any Intellectual Property licensed hereunder will be free from infringement of any Patent rights or other Intellectual Property rights of any Person.

3.5 Delivery Obligations and Technical Review and Transfer< font style="font-family:inherit;font-size:12pt;">.

(a) Delivery. Upon a licensee Party's written request from time to time, each licensor Party shall promptly deliver to the requesting licensee Party, on media reasonably specified by the licensee Party and at the licensee Party's expense, a copy of any Intellectual Property licensed to the licensee Party hereunder.

(b) Technical Review and Transfer. The JVC shall, on a quarterly basis, conduct knowledge and technology transfer sessions with SPTL's technical team pursuant to the terms and conditions to be mutually agreed upon in writing by the Parties. AUO shall have the right to designate personnel to attend such sessions and have access to information arising from or in connection with such sessions.

3.6 Patent Matters. SPTL shall have the first right, but not the obligation, to direct and control the preparation, filing, prosecution, issuance, maintenance (including interference, opposition and similar Third Party proceedings before the relevant patent office), enforcement and defense of any Patents (collectively, "Patent Matters") in the JVC Developments. Otherwise, (a) for Joint Inventions owned by the JVC and SPTL, SPTL shall direct and control all Patent Matters at its cost, (b) for Jo int Inventions owned by the JVC and AUO, AUO shall direct and control all Patent Matters at its cost, and (c) each of SPTL and AUO shall direct and control all Patent Matters for the Intellectual Property owned solely by it pursuant to this Agreement at its cost. All of the foregoing shall be as otherwise described in and governed by the terms and conditions of the IP Services Agreement.

3.7 Joint Development Programs. In the event the JVC wishes to develop or implement a Step Modification(s), it shall notify SPTL and AUO in writing, specifying the proposed Step Modification(s) i n sufficient detail to permit evaluation of same. If SPTL agrees to such Step Modification(s) (which agreement not to be unreasonably withheld), SPTL, the JVC and, if applicable, AUO shall enter into an agreement governing the a Joint Development Program directed toward such Step Modification(s) and the rights and obligations of the each applicable Party with respect thereto substantially in a form mutually agreed upon in writing by the Parties (each, a "JDP Agreement"). In the event of a conflict between the terms of this Agreement and a JDP Agreement, the terms of this Agreement shall govern, unless the JDP Agreement expressly refers to and supersedes the conflicting provision contained herein. For the avoidance of doubt, the JVC may not develop or implement a Step Modification without SPTL'ss express written consent, which shall not be unreasonabl y withheld.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES; LIMITATION OF LIABILITY.

4.1 Representations and Warranties.

(a) The representations and warranties of SPTL under Section 16 (Representations and Warranties of SPTL) of the JVA and of AUO under Section 15 (Representations and Warranties of AUO) of the JVA are hereby incorporated by reference, as if fully set forth herein.

(b) Each Party represents and warrants to each other Party that it has the right to grant all applicable ownership and license rights provided hereunder and that it has not and shall not enter into any agreement that would preclude it from fulfilling its obligations under this Agreement.

4.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE OR IN THE JVA, NONE OF THE PARTIES MAKES ANY WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE RIGHTS AND LICENSES GRANTED BY IT HEREUNDER, AND EXPRESSLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

ARTICLE V

CONFIDENTIALITY

The provisions of Section 10 (Confidentiality) of the JVA are hereby incorporated by reference, and shall apply to this Agreement as if the text of such provisions were set forth in their entirety in this Agreement. For the avoidance of doubt, as among the Parties, all Confidential Information relating to: (i) the SPTL Background Intellectual Property, JDP SPTL Developments and JVC SPTL Improvements shall be SPTL's Confidential Information; (ii) the AUO Background Intellectual Property, JDP AUO Developments and JVC AUO Improvements shall be AUO's Confidential Information; (iii) the JVC Developments shall be the JVC's Confidential Information; and (iv) the Joint Inventions shall be the Confidential Information of the owning Parties.

ARTICLE VI

TERM AND TERMINATION

6.1 Term. This Agreement shall commence upon the Closing Date and shall remain in full force and shall automatically terminate upon dissolution of the JVC or otherwise in accordance with the terms of this Article VI.

6.2 Termination of Licenses for Cause.

(a). Breach. If a Party fails to comply with a material term of this Agreement or the JVA and such failure remains uncured for a period of sixty (60) days after such l icensed Party receives written notice describing such failure in reasonable detail (or a period of thirty (30) days in the event such notice is based upon a breach of (i) an assignment obligation set forth in Article II above, (ii) the terms and scope of a license granted under Article III above or (iii) a Party's confidentiality obligations set forth in Article V above), the rights and licenses granted to such breaching Party pursuant to Sections 3.1(a)(i), 3.1(b)(i), 3.2 and/or 3.3 above, as applicable, shall automatically terminate.

(b). Bankruptcy. Upon the occurrence of a Ba nkruptcy Event with respect to any Party or a receiver is appointed for all of any Party's property and assets or any Party makes a general assignment for the benefit of creditors, or any Party becomes a debtor in a case under any applicable statute relating to bankruptcy or becomes the subject of any other bankruptcy or similar proceeding for the general adjustment of its debts (and in the case of an involuntary proceeding filed against such Party, such proceeding is not discharged or dismissed within sixty (60) days), the rights and licenses granted to such Party pursuant to Sections 3.1(a)(i), 3.1(b)(i), 3.2 and/or 3.3 above, as applicable, shall automatically terminate.

Without derogating in any way from the generality of this clause and the definition of "Bankr uptcy Events", the following events, if they occur with respect to JVC, shall be deemed to be Bankruptcy Events:

(i) if any step or action is taken or a resolution is passed for the winding up, dissolution or liquidation of the JVC or a petition for winding up is presented against the JVC; or

(ii) if the JVC becomes insolvent, is unable to pay its debts as they fall due, stops, suspends or threatens to stop or suspend payment of all or a material part of its debts, begins negotiations or takes any proceeding or other step with a view to readjustment, rescheduling or deferral of all or any part of its indebtedness.

6.3 Termination of JVC's Rights for Certain Events.
Unless otherwised agreed by the Parties, if the JVC undergoes a change of control or ownership which the JVC's majority shares is transferred to a third party other than SPTL and AUO or other restructuring altering the JVC's structure which is entirely controlled by SPTL and/or AUO or any violation of Section 7.6 , each of SPTL and AUO shall have the right, upon written notice to the other Parties, to immediately terminate the rights and licenses granted by it to the JVC under Article III above.
6.4 Effect of Termination.

(a). Termination of this Agreement shall not (i) relieve any Party of any obligation accruing to such Party prior to such termination, or (ii) result in the waiver of any right or remedy by a Party accruing to such Party prior to such termination.

(b). Upon the termination of this Agreement or upon termination of the JVC's rights and licenses pursuant to Section 6.2 or 6.3 above: (i) all rights and licenses granted to the JVC pursuant to Section 3.1 shall automatically terminate; (ii) the JVC shall assign its entire right, title and interest in, to and under the JVC Developments and the Joint Inventions primarily relating to the AUO Field to AUO, subject to the pre-existing license granted to SPTL pursuant to Section 3.2(a) above (unless earlier terminated pursuant to Section 6.2 above); (iii) the JVC shall assign its entire right, title and interest in, to and under the JVC Developments and the Joint Inventions not assigned to AUO pursuant to subsection (ii) of this Section 6.4(b) to SPTL, subject to the pre-existing license granted to AUO pursuant to Section 3.3(a) above (unless earlier terminated pursuant to Section 6.2 above); and (iv) the rights and licenses granted in Sections 3.2(b) and 3.3(b) shall survive (unless earlier terminated pursuant to Section 6.2 above). For the avoidance of doubt, notwithstanding the termination of this Agreement or Section 6.5 below, the s urviving licenses referenced in subsections (ii), (iii) and (v) of this Section 6.4(b) shall continue to be governed by the applicable terms of this Agreement. In the event the Parties have not reached agreement on the characterization of any JVC Developments or Joint Inventions (i.e., whether or not it relates to the AUO Field) within thirty (30) days of termination of this Agreement or termination of the JVC's rights and licenses pursuant to Section 6.2 or 6.3 above, the matter shall be resolved pursuant to the dispute resolution procedures set forth in Section 1.4 of the IP Services Agreement.

6.5 Survival. Sections 3.4, 6.4 and 6.5 and Articles II, IV, V and VII herein shall survive termination of this Agreement for as long as necessary to permit their full discharge.

ARTICLE VII

<u>MIS CELLANEOUS</u>

7.1 <u>Governing Law and Dispute Resolution</u>. This Agreement, and the rights and obligations of the Parties hereunder, shall be interpreted and governed in accordance with the laws of the State of California, without giving effect to its conflict of laws provisions. Any disputes incapable of being resolved by mutual agreement of the Parties shall be handled in accordance with Section 18.2 (Arbitration) of the JVA.

7.2 <u>Notices</u>. All notices, demands, requests, consents or other communications hereunder shall be transmitted in accordance with Section 18.3 (Notices) of the JVA.

7.3 <u>Entire Agreement</u>. This Agreement, together with the JVA and all Annexes, Exhibits and Schedules hereto and the reto, are intended to embody the final, complete and exclusive agreement between the Parties with respect to the matters addressed herein; are intended to supersede all prior agreements, understandings and representations written or oral, with respect thereto, including the Existing Confidentiality Agreement; and may not be contradicted by evidence of any such prior or contemporaneous agreement, understanding or representation, whether written or oral.

7.4 <u>Amendment</u>. This Agreement shall not be modified, amended, canceled or altered in any way, and may not be mod ified by custom, usage of trade or course of dealing, except by an instrument in writing signed by each Party. All amendments or modifications of this Agreement shall be binding upon the Parties despite any lack of consideration so long as the same shall be in writing and executed by the Parties.

7.5 <u>Waiver</u>. The performance of any obligation required of a Party hereunder may be waived only by a written waiver signed by the other Party, and such waiver shall be effective only with respect to the specific obligation described. The waiver by either Party of a breach of any provision of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent breach of the same provision or another provision of this Agreement.

7.6 <u>Assignment</u>. Neither this Agreement, nor any rights under this Agreement, may be assigned or otherwise transferred by any Party, in whole or in part, whether voluntary, or by operation of law, except, with respect to a Party that is an original signatory to this Agreement on the date of this Agreement, in connection with a change of control of such Party (whether by means of a merger, consolidation, purchase of substantially all the stock or assets, reorganization or similar transaction or series of transactions). Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of each Party and its respective successors and permitted assigns.

7.7 <u>Severability</u>. In the event that any term, condition or provision of this Agreement is held to be or become invalid or be a violation of any applicable Law, statute or regulation, the same shall be deemed to be deleted from this Agreement and shall be of no force and ef fect and the Agreement shall remain in full force and effect as if such term, condition or provision had not originally been contained in this Agreement. The validity and enforceability of the other *provisions shall not be affected thereby. In such case or in the event that this Agreement should have a gap, the Parties shall agree on a valid and enforceable provision completing this Agreement, coming as close as possible to the economic intentions of the Parties. In the event of a partial invalidity, the Parties agree that this Agreement shall remain in force without the invalid part. This s hall also apply if parts of this Agreement are partially invalid.*

7.8 <u>Expenses</u>. Except as specifically provided for in this Agreement, each of the Parties shall bear its respective expenses, costs and fees (including attorneys' fees) in connection with the transactions contemplated hereby, including the preparation, execution and delivery of this Agreement and an exhibits hereto and compliance herewith and therewith.

7.9 <u>Third Party Benefits</u>. This Agreement shall be binding upon, and inure to the benefit of, each of the Parties and their respective successors and permitted assigns. Nothing contained in this Agreement, express or implied, shall be deemed to confer any right or remedy upon, or obligate any Party to, any person or entity other than the Parties and their respective successors and permitted assigns.

7.10 <u>Counterparts</u>. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

7.11 <u>Interpretation</u>. In this Agreement: (i) headings are for convenience of reference only and shall not affect the interpretation of the provisions of this Agreement except to the extent that the context otherwise requires; (ii) words i mporting the singular shall include the plural and vice versa; (iii) words denoting individuals shall include any form of entity and vice versa; (iv) words denoting any gender shall include all genders; (v) where any act, matter or thing is required by this Agreement to be performed or carried out on a certain day and that day is not a Business Day, then that act, matter or thing shall be carried out or performed on the next following Business Day; (vi) unless specified otherwise, any reference herein to any Article, Section, clause, sub-article, sub-clause, Schedule or Exhibit shall be deemed to be a reference to an Article, Section, clause, sub-article, sub-clause, Schedule or Exhibit of this Agreement; (vii) any reference to any agreement, document or instrument shall refer to such agreement, document or instrument as amended, modified or supplemented; (viii) the words "include," "including" and the derivations thereof shall not be limiting and shall be deemed to be followed by the phase "without limitation;" and (ix) where there is any inconsistency between the definitions set out in this clause and the definitions set out in any Article, Section, clause, sub-article, sub-clause, Schedule or Exhibit, then for the purposes of construing such Article, Section, clause, sub-article, sub-clause, Schedule or Exhibit, the definitions set out therein shall prevail.

7.12 <u>Cumulation of Remedies</u>. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by Law.

7.13 <u>English Language</u>. All agendas, notices, other documentation relating to (i) documentation provided to the Parties and (ii) interaction between and/or among the Parties, including this Agreement, shall be prepared in and entered into the English language. In the event of any dispute concerning the construction or meaning of this Agreement, the text of the

Agreement as written in the English language shall prevail over any translation of this Agreement that may have been or will be made.

7.14 Equitable Relief. The Parties agree that irreparable damage would occur if any provision of Articles II, III and V of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to an injunction o r injunctions to prevent breaches of such provisions or to enforce specifically the performance of such provisions before any court of competent jurisdiction in addition to any other remedy to which they are entitled.

7.15 Disclaimer of Agency. This Agreement shall not be deemed to constitute any Party the agent of the other Party or the JVC, nor shall it constitute the JVC to be an agent of any of the Parties.

7.16 Rules of Construction. The Parties agree that they have been represented by counsel during the negotiation, preparation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

[Signatures follow]

IN WITNESS WHEREOF, SPTL, AUO and the JVC have caused this Agreement to be signed by their respective duly authorized representatives as of the date first set forth above.

SUNPOWER TECHNOLOGY, LTD.

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: Director

AU OPTRONICS SINGAPORE PTE. LTD.

By: /s/ James CP Chen

Name: James Chen

Title: Director

SUNPOWER MALAYSIA MANUFACTURING SDN.BHD.

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: Director

(Signature Page to License and Technology Transfer Agreement)

Execution Version

SIXTH AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

This SIXTH AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT (this “Amendment”), dated as of August 11, 2010, is among SUNPOWER CORPORATION, a Delaware corporation (“SunPower”), SUNPOWER NORTH AMERICA, LLC, a Delaware limited liability company (“SunPowerNA”), SUNPOWER CORPORATION, SYSTEMS, a Delaware corporation (“SunPower System s”), and WELLS FARGO BANK, NATIONAL ASSOCIATION (“Bank”).

RECITALS

WHEREAS SunPower and Bank have previously entered into that certain Amended and Restated Credit Agreement, dated as of March 20, 2009 (as amended, amended and restated and/or otherwise supplemented or modified prior to the date hereof (including, without limitation, pursuant to that certain First Amendment to Amended and Restated Credit Agreement, dated as of April 17, 2009, that certain Second Amendment to A mended and Restated Credit Agreement, dated as of August 31, 2009, that certain Third Amendment to Amended and Restated Credit Agreement, dated as of December 22, 2009 (the “Third Amendment”), that certain Fourth Amendment to Amended and Restated Credit Agreement, dated as of February 10, 2010 (as amended by that certain letter agreement, dated as of March 16, 2010, the “Fourth Amendment”), that certain Fifth Amendment to Amended and Restated Credit Agreement, dated as of April 12, 2010, and pursuant to that certain Consent to New Indebtedness, dated as of April, 2009, that certain Consent Agreement, dated as of March 24, 2010 and that certain letter agreement, dated as of June 30, 2010, the “Existing Credit Agreement”);

WHEREAS each of SunPower, SunPowerNA and SunPower Systems has requested that Bank, subject to and upon the terms and conditions contained herein, amend the Existing Credit Agreement; and

WHEREAS Bank is willing, subject to and upon the terms and conditions contained herein, to amend the Existing Credit Agreement;

AGREEMENT

Now, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Definitions. Each capitalized term used but not otherwise defined herein has the meaning ascribed thereto in the Existing Credit Agreement.

Section 2. Amendments to Section 5.6 of the Credit Agreement. Subject to Section 4 hereof and notwithstanding anything to the contrary contained in the Existing Credit Agreement, Section 5.6 of the Existing Credit Agreement is hereby amended and restated to read in full as follows:

> *SECTION 5.6. DIVIDENDS, DISTRIBUTIONS. Declare or pay any dividend or distribution either in cash, stock or any other property on Borrower's stock now or hereafter outstanding, nor redeem, retire, repurchase or otherwise acquire any shares of any class of Borrower's stock now or hereafter outstanding (other than repurchases or the like from employees, consultants, officers and directors in connection with Borrower's s tock plan); nor agree (or cause or permit any Subsidiary (other than SunRay Malta Holdings Limited and its Subsidiaries) to agree) with any third party to prohibit,*

condition or restrict the payment of dividends and distributions by such Subsidiary to Borrower or to another Subsidiary.

Subject to Section 4 hereof and notwithstanding anything to the contrary contained in the Existing Credit Agreement, Bank hereby waives any Event of Default arising under Section 5.6 of the Existing Agreement by virtue of the credit facility entered into on or about May 20, 2010 between Centauro PV S.r.l., a wholly-owned Subsidiary of SunRay Malta Holdings Limited, and Barclays Bank PLC.

Section 3. Representations and Warranties. Each of SunPower, SunPowerNA and SunPower Systems hereby represents and warrants to Bank as follows:

(a) No Event of Default or any event which, with the giving of notice, the lapse of time or both, would constitute an Event of Default has occurred and is continuing (or would result from the amendments to the Existing Credit Agreement proposed to be effected hereby).

(b) The execution, delivery and performance by each of SunPower, SunPowerNA and SunPower Systems of this Amendment have been duly authorized by all necessary corporate or other action and do not and will not require any registration with, consent or approval of, or notice to or action by, any person or entity in order to be effective and enforceable.

(c) All representations and warranties of each of SunPower, S unPowerNA and SunPower Systems contained in each Loan Document to which each is a party are true, correct and complete in all material respects (except to the extent such representations and warranties expressly (i) refer to an earlier date, in which case they are true, correct and complete as of such earlier date and (ii) are inaccurate due to the Specified Financial Statement Accounting Errors (as that term is defined in the Third Amendment), which inaccuracy was expressly addressed by the Third Amendment).

Section 4. Effectiveness. This Amendment shall become effective as of the date first set forth above (such date, the Effective Date") upon the satisfactions of the following conditions:

(a) Bank shall have received an original of this Amendment, duly executed and delivered by each of SunPower, SunPowerNA and SunPower Systems;

(b) each of the representations and warranties of SunPower, SunPowerNA and SunPower Systems contained in Section 3 of this Amendment shall be true, correct and complete; and

(c) Bank shall have received in immediately available U.S. Dollars, all out-of-pocket costs and expenses (including reasonable attorneys' fees and costs) incurred by Bank in connection with this Amendment and invoiced to SunPower prior to the date on which this Amendment is otherwise to become effective; provided that the failure to invoice any such amounts to SunPower prior to such date shall not preclude Bank from seeking r eimbursement of such amounts, or excuse SunPower from paying or reimbursing such amounts, following the Effective Date.

Section 5. General Provisions.

(a) Each of SunPower, SunPowerNA and SunPower Systems specifically acknowledges and agrees that: (i) the execution and delivery by Bank of this Amendment shall

not be deemed to create a course of dealing or otherwise obligate Bank to execute similar agreements under the same, similar or different circumstances in the future; (ii) Bank does not have any obl igation to SunPower or any Third Party Obligor to further amend provisions of the Credit Agreement or the other Loan Documents; and (iii) except as expressly set forth herein, the Existing Credit Agreement and each of the other Loan Documents, and the representations, warranties, covenants, understandings and agreements of SunPower and each Third Party Obligor thereunder, shall remain unchanged and in full force and effect.

(b) This Amendment shall be binding upon and inure to the benefit of the parties to the Existing Credit Agreement and their respective successors and assigns.

(c) This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Each of the parties hereto understands and agrees that this document (and any other document required herein) may be delivered by the other party thereto either in the form of an executed original or an executed original sent by telefacsimile or electronic transmission to be followed promptly by mailing of a hard copy original, and that receipt by Bank by electronic mail or telefacsimile transmission of a document purportedly bearing the signature of any party hereto shall bind such party with the same force and effect as the delivery of a hard copy original.

(d) This Amendment contains the entire and exclusive agreement of the parties to the Existing Credit Agreement with reference to the matters discussed herein. This Amendment supersedes all prior drafts and communications with respect hereto. This Amendment may not be amended except in accordance with the provisions of the Credit Agreement.

(e) Each reference to "this Agreement," "hereof," "hereunder," "herein" and "hereby" and each other similar reference contained in the Existing Credit Agreement, and each reference to the "Credit Agreement" and each other similar reference in the other Loan Documents, shall from and after the Effective Date, refer to the Existing Credit Agreement, as amended hereby. This Amendment and the Existing Credit Agreement shall be read together, as one document. This Amendment is a Loan Document.

(f) This Amendment is subject in all respects to Section 7.10 and 7.11 of the Existing Credit Agreement, each of which is incorporated herein, mutatis mutand is.

[DOCUMENT CONTINUES WITH SIGNATURE PAGES.]

In Witness Whereof, the parties hereto have caused this Sixth Amendment to Amended and Restated Credit Agreement to be duly executed as of the date first written above.

SunPower:

SUNPOWER CORPORATION,
a Delaware corporation

By: /s/ Dennis V. Arriola
Name: Dennis V. Arriola
Title: Executive Vice President and CFO

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Third Party Obligors:

SUNPOWER NORTH AMERICA, LLC,
a Delaware limited liability company

By: /s/ Dennis V. Arriola
Name: Dennis V. Arriola
Title: Chief Financial Officer

SUNPOWER CORPORATION, SYSTEMS,
a Delaware corporation

By: /s/ Dennis V. Arriola
Name: Dennis V. Arriola
Title: Senior Vice President and CFO

Bank:

;

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

By: /s/ Matt Servatius
Name: Matt Servatius
Title: Vice President

EXHIBIT 31.1

CERTIFICATIONS

I, Thomas H. Werner, certify that:

1 I have reviewed this Quarterly Report on Form 10-Q of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such state ments 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 subs idiaries, 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 ma terially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other certi fying 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: November 12, 2010

/S/ THOMAS H. WERNER

Thomas H. Werner
President and Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATIONS

I, Dennis V. Arriola, certify that:

1 I have reviewed this Quarterly Report on Form 10-Q of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such stat ements were made, not misleading with respect to the period covered by this report;

3 Based on my knowledge, the financial statem ents, 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 ha s materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other c ertifying 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: November 12, 2010

/S/ DENNIS V. ARRIOLA

Dennis V. Arriola
Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND
CHIEF FINANCIAL OFFICER PURSUANT TO
< font style="font-family:inherit;font-size:10pt;font-weight:bold;">18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of SunPower Corporation (the "Company") on Form 10-Q for the period ended October 3, 2010 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 t o 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 Repor t fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 12, 2010

Dennis V. Arriola

/S/ THOMAS H. WERNER

Thomas H. Werner
President and Chief Executive Officer
(Principal Executive Officer)

/S/ DENNIS V. ARRIOLA

Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting 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.