

SUNPOWER CORP  
Form DEF 14A  
June 10, 2013  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**SCHEDULE 14A**

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

**SCHEDULE 14A INFORMATION**

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

(Amendment No. )

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

# SunPower Corporation

(Name of Registrant as Specified In Its Charter)

n/a

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
  - (1) Title of each class of securities to which transaction applies:
  
  
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- Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
  - (1) Amount previously paid with preliminary materials:
  
  
  - (2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**NOTICE OF THE 2013 ANNUAL MEETING OF STOCKHOLDERS**

TO ALL SUNPOWER STOCKHOLDERS:

NOTICE IS HEREBY GIVEN that the 2013 Annual Meeting of Stockholders (the Annual Meeting ) of SunPower Corporation, a Delaware corporation ( SunPower ), will be held on:

Date: Wednesday, July 24, 2013

Time: Noon Pacific Time

Place: SunPower Corporation, 77 Rio Robles, San Jose, California 95134

Items of

- Business:
1. The re-election of three directors to serve as Class II directors on our board of directors (the Board );
  2. The proposal to approve, in an advisory vote, our named executive officer compensation;
  3. The ratification of the appointment of Ernst & Young LLP as our independent registered public accounting firm for fiscal year 2013; and
  4. To transact such other business as may properly come before the Annual Meeting or any adjournment or postponement thereof.

The foregoing items of business are more fully described in the proxy statement accompanying this Notice. On June 10, 2013 we began mailing to stockholders either a Notice of Internet Availability of Proxy Materials or this notice of the Annual Meeting, the proxy statement and the form of proxy.

All stockholders are cordially invited to attend the Annual Meeting in person. Only stockholders of record at the close of business on May 28, 2013 (the Record Date ) are entitled to receive notice of, and to vote at, the Annual Meeting or any adjournment or postponement of the Annual Meeting. Any registered stockholder in attendance at the Annual Meeting and entitled to vote may do so in person even if such stockholder returned a proxy.

San Jose, California  
June 10, 2013

FOR THE BOARD OF DIRECTORS

Lisa Bodensteiner  
Corporate Secretary

**IMPORTANT: WHETHER OR NOT YOU EXPECT TO ATTEND THE ANNUAL MEETING, PLEASE COMPLETE, DATE AND SIGN THE PROXY CARD AND MAIL IT PROMPTLY, OR YOU MAY VOTE BY TELEPHONE OR VIA THE INTERNET BY FOLLOWING THE DIRECTIONS ON THE PROXY CARD. ANY ONE OF THESE METHODS WILL ENSURE REPRESENTATION OF YOUR SHARES AT THE ANNUAL MEETING. NO POSTAGE NEED BE AFFIXED TO THE COMPANY-PROVIDED PROXY CARD ENVELOPE IF MAILED IN THE UNITED STATES.**

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2013 ANNUAL MEETING OF STOCKHOLDERS**

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**SUNPOWER CORPORATION**

**77 Rio Robles**

**San Jose, California 95134**

**PROXY STATEMENT FOR**

**2013 ANNUAL MEETING OF STOCKHOLDERS**

**INFORMATION CONCERNING SOLICITATION AND VOTING**

**General**

The Board of Directors (the Board) of SunPower Corporation, a Delaware corporation, is furnishing this proxy statement and proxy card to you in connection with its solicitation of proxies to be used at SunPower Corporation's Annual Meeting of Stockholders to be held on July 24, 2013 at noon Pacific Time at SunPower Corporation, 77 Rio Robles, San Jose, California, or at any adjournment(s), continuation(s) or postponement(s) of the meeting (the Annual Meeting).

We use a number of abbreviations in this proxy statement. We refer to SunPower Corporation as SunPower, the Company, or we, us or our. term proxy solicitation materials includes this proxy statement, the notice of the Annual Meeting, and the proxy card. References to fiscal 2012 mean our 2012 fiscal year, which began on January 2, 2012 and ended on December 30, 2012.

Our principal executive offices are located at 77 Rio Robles, San Jose, California 95134, and our telephone number is (408) 240-5500.

**Important Notice Regarding the Availability of Proxy Materials**

We have elected to comply with the Securities and Exchange Commission (the SEC) Notice and Access rules, which allow us to make our proxy solicitation materials available to our stockholders over the Internet. Under these rules, on or about June 10, 2013, we started mailing to certain of our stockholders a Notice of Internet Availability of Proxy Materials (the Notice of Internet Availability). The Notice of Internet Availability contains instructions on how our stockholders can both access the proxy solicitation materials and our 2012 Annual Report for the fiscal year ended December 30, 2012 (2012 Annual Report) online and vote online. By sending the Notice of Internet Availability instead of paper copies of the proxy materials, we expect to lower the costs and reduce the environmental impact of our Annual Meeting.

Our proxy solicitation materials and our 2012 Annual Report are available at [www.proxyvote.com](http://www.proxyvote.com).

Stockholders receiving the Notice of Internet Availability may request a paper or electronic copy of our proxy solicitation materials by following the instructions set forth on the Notice of Internet Availability. Stockholders who did not receive the Notice of Internet Availability will continue to receive a paper or electronic copy of our proxy solicitation materials, which were first mailed to stockholders and made public on or about June 10, 2013.

**Delivery of Voting Materials**

If you would like to further reduce our costs in mailing proxy materials, you can consent to receiving all future proxy statements, proxy cards and annual reports electronically via e-mail or the Internet. To sign up for electronic delivery, please follow the instructions provided for voting via [www.proxyvote.com](http://www.proxyvote.com) and, when prompted, indicate that you agree to receive or access proxy materials electronically in future years.

To reduce the expenses of delivering duplicate materials to our stockholders, we are taking advantage of householding rules that permit us to deliver only one set of proxy solicitation materials, proxy card, and our 2012





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Annual Report, or one copy of the Notice of Internet Availability, to stockholders who share the same address, unless otherwise requested. Each stockholder retains a separate right to vote on all matters presented at the Annual Meeting.

If you share an address with another stockholder and have received only one set of materials, you may write or call us to request a separate copy of these materials at no cost to you. For future annual meetings, you may request separate materials or request that we only send one set of materials to you if you are receiving multiple copies by writing to us at SunPower Corporation, 77 Rio Robles, San Jose, California 95134, Attention: Corporate Secretary, or calling us at (408) 240-5500.

A copy of our Annual Report on Form 10-K has been furnished with this proxy statement to each stockholder. A stockholder may also request a copy of our Annual Report on Form 10-K by writing to our Corporate Secretary at 77 Rio Robles, San Jose, California 95134. Upon receipt of such request, we will provide a copy of our Annual Report on Form 10-K without charge, including the financial statements required to be filed with the SEC pursuant to Rule 13a-1 of the Securities Exchange Act of 1934 ( Exchange Act ) for our fiscal year 2012. Our Annual Report on Form 10-K is also available on our website at <http://investors.sunpowercorp.com/sec.cfm>.

## **Record Date and Shares Outstanding**

Stockholders who owned shares of our common stock, par value \$0.001 per share, at the close of business on May 28, 2013, which we refer to as the Record Date, are entitled to notice of, and to vote at, the Annual Meeting. On the Record Date, we had 120,930,524 shares of common stock outstanding. For more information about beneficial ownership of our issued and outstanding common stock, please see *Security Ownership of Management and Certain Beneficial Owners*.

## **Board Recommendations**

Our Board recommends that you vote:

FOR Proposal One: re-election of each of the nominated Class II directors;

FOR Proposal Two: the approval, on an advisory basis, of the compensation of our named executive officers; and

FOR Proposal Three: the ratification of appointment of Ernst & Young LLP as our independent registered public accounting firm for fiscal year 2013.

## **Voting**

Each holder of shares of common stock is entitled to one vote for each share of common stock held as of the Record Date. Cumulating votes is not permitted under our By-laws.

Many of our stockholders hold their shares through a stockbroker, bank or other nominee, rather than directly in their own name. As summarized below, there are distinctions between shares held of record and those beneficially owned.

**Stockholder of Record.** If your shares are registered directly in your name with our transfer agent, Computershare Trust Company N.A., you are considered, with respect to those shares, the stockholder of record and these proxy solicitation materials are being furnished to you directly by us.

**Beneficial Owner.** If your shares are held in a stock brokerage account, or by a bank or other nominee (also known as shares registered in street name ), you are considered the beneficial owner of such shares held in street name, and these proxy solicitation materials are being furnished to you by your broker, bank or other nominee, who is considered, with respect to those shares, the stockholder of record. As the beneficial owner, you



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have the right to direct your broker, bank or other nominee as to how to vote your shares. You are also invited to attend the Annual Meeting. However, since you are not the stockholder of record, you may not automatically vote your shares in person at the Annual Meeting.

***How To Vote.*** If you hold shares directly as a stockholder of record, you can vote in one of the following three ways, in addition to attending the Annual Meeting:

(1) **Vote via the Internet at [www.proxyvote.com](http://www.proxyvote.com)**. Use the Internet to transmit your voting instructions and for electronic delivery of information up until 11:59 p.m. Eastern Time on July 23, 2013. Have your Notice of Internet Availability or proxy card in hand when you access the website and then follow the instructions.

(2) **Vote by Telephone at 1-800-690-6903**. Use a touch-tone telephone to transmit your voting instructions up until 11:59 p.m. Eastern Time on July 23, 2013. Have your Notice of Internet Availability or proxy card in hand when you call and then follow the instructions. This number is toll free in the U.S. and Canada.

(3) **Vote by Mail**. Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided with any paper copy of the proxy statement, or return the proxy card to SunPower Corporation, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

If you hold shares beneficially in street name, you may submit your voting instructions in the manner prescribed by your broker, bank or other nominee by following the instructions provided by your broker, bank or other nominee. Shares registered in street name may be voted in person by you at the Annual Meeting only if you obtain a signed proxy from the broker, bank or other nominee who holds your shares, giving you the right to vote the shares.

Even if you plan to attend the Annual Meeting, we recommend that you vote your shares in advance as described above so that your vote will be counted if you later decide not to attend the Annual Meeting.

***Quorum.*** A quorum, which is the holders of at least a majority of shares of our stock issued and outstanding and entitled to vote as of the Record Date, is required to be present in person or by proxy at the Annual Meeting in order to hold the Annual Meeting and to conduct business. Your shares will be counted as being present at the Annual Meeting if you appear in person at the Annual Meeting (and are the stockholder of record for your shares), if you vote your shares by telephone or over the Internet, or if you submit a properly executed proxy card. Abstentions and broker non-votes are counted as present and entitled to vote for purposes of determining a quorum. Votes against a particular proposal will also be counted both to determine the presence or absence of a quorum and to determine whether the requisite number of voting shares has been obtained.

***Explanation of Broker Non-Votes and Abstentions.*** A broker non-vote occurs when a nominee holding shares for a beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power with respect to that item and has not received instructions from the beneficial owner. NYSE rules (which also apply to companies listed on The Nasdaq Stock Exchange) prohibit brokers from voting in their discretion on any of our proposals without instructions from the beneficial owners. If you do not instruct your broker how to vote on the proposals, your broker will not vote for you. Abstentions are deemed to be entitled to vote for purposes of determining whether stockholder approval of that matter has been obtained, and they would be included in the tabulation of voting results as votes against the proposal.

***Votes Required/Treatment of Broker Non-Votes and Abstentions.***

**Proposal One Re-election of Class II Directors.** Election of a director requires the affirmative vote of the holders of a plurality of votes represented by the shares present in person or represented by proxy at a meeting at which a quorum is present. The three persons receiving the greatest number of votes at the Annual Meeting shall be elected as Class II directors. Since only affirmative votes will be counted, neither broker non-votes nor abstentions will affect the outcome of the voting on Proposal One.

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**Proposal Two Advisory Vote on Named Executive Officer Compensation.** The advisory vote on named executive compensation requires the affirmative vote of the holders of a majority of our stock having voting power and present in person or represented by proxy at the Annual Meeting. Broker non-votes and abstentions will not count as votes in favor of the advisory vote on named executive officer compensation and abstentions, but not broker non-votes, will have the effect of votes against Proposal Two.

**Proposal Three Ratification of the Appointment of Independent Registered Public Accounting Firm for Fiscal Year 2013.** Ratification of the appointment of our independent registered public accounting firm requires the affirmative vote of the holders of a majority of our stock having voting power and present in person or represented by proxy at the Annual Meeting. Broker non-votes and abstentions will not count as votes in favor of this proposal and abstentions, but not broker non-votes, will have the effect of votes against Proposal Three.

## **How Your Proxy Will Be Voted**

If you complete and submit your proxy card or vote via the Internet or by telephone, the shares represented by your proxy will be voted at the Annual Meeting in accordance with your instructions. If you submit your proxy card by mail, but do not fill out the voting instructions on the proxy card, the shares represented by your proxy will be voted in favor of each of the three proposals. In addition, if any other matters properly come before the Annual Meeting, it is the intention of the persons named in the enclosed proxy card to vote the shares they represent as directed by the Board. We have not received notice of any other matters that may properly be presented at the Annual Meeting.

## **Revoking Your Proxy**

You may revoke your proxy at any time prior to the date of the Annual Meeting by: (1) submitting a later-dated vote in person at the Annual Meeting, via the Internet, by telephone or by mail; or (2) delivering instructions to us at 77 Rio Robles, San Jose, California 95134 to the attention of our Corporate Secretary. Any notice of revocation sent to us must include the stockholder's name and must be actually received by us prior to the Annual Meeting to be effective. Your attendance at the Annual Meeting after having executed and delivered a valid proxy card or vote via the Internet or by telephone will not in and of itself constitute a revocation of your proxy. If you intend to revoke your proxy by voting in person at the Annual Meeting, you will be required to give oral notice of your intention to do so to the Inspector of Elections at the Annual Meeting. If your shares are held in street name, you should follow the directions provided by your broker, bank or other nominee regarding how to revoke your proxy.

## **Solicitation of Proxies**

We will pay for the cost of this proxy solicitation. We may reimburse brokerage firms and other persons representing beneficial owners of shares for their expenses in forwarding or furnishing proxy solicitation materials to such beneficial owners. Proxies may also be solicited personally or by telephone, telegram, or facsimile by certain of our directors, officers, and regular employees, without additional compensation.

## **Voting Results**

We will announce preliminary voting results at the Annual Meeting and publish final results pursuant to a Current Report on Form 8-K which we intend to file with the SEC within four business days following the Annual Meeting.

## **Note Concerning Forward-Looking Statements**

*Certain of the statements contained in this proxy statement are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements that do not represent historical facts and the assumptions underlying such statements. We use words such as*

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*anticipate, believe, continue could, estimate, expect, intend, may, potential, should, will, would and similar expressions to identify forward-looking statements. These statements include, but are not limited to, operating results, business strategies, management's plans and objectives for future operations, expectations and intentions, actions to be taken by us and other statements that are not historical facts. These forward-looking statements are based on information available to us as of the date of this proxy statement and our current expectations, forecasts and assumptions and involve a number of risks and uncertainties that could cause actual results to differ materially from those anticipated by these forward-looking statements. Such risks and uncertainties include a variety of factors, some of which are beyond our control. All of the forward-looking statements are qualified in their entirety by reference to the factors discussed in Part I, Item 1A, Risk Factors and elsewhere in our Annual Report on Form 10-K for the year ended December 30, 2012, which accompanies this proxy statement. There may be other factors of which we are not currently aware that may affect matters discussed in the forward-looking statements and may also cause actual results to differ materially from those discussed. 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.*

**WHETHER OR NOT YOU EXPECT TO ATTEND THE ANNUAL MEETING IN PERSON, YOU ARE REQUESTED TO COMPLETE, DATE, AND SIGN THE PROXY CARD AND RETURN IT PROMPTLY, OR VOTE BY TELEPHONE OR VIA THE INTERNET BY FOLLOWING THE DIRECTIONS ON THE PROXY CARD. BY RETURNING YOUR PROXY CARD OR VOTING BY PHONE OR INTERNET PROMPTLY, YOU CAN HELP US AVOID THE EXPENSE OF FOLLOW-UP MAILINGS TO ENSURE A QUORUM IS PRESENT AT THE ANNUAL MEETING. STOCKHOLDERS WHO ATTEND THE ANNUAL MEETING MAY REVOKE A PRIOR PROXY VOTE AND VOTE THEIR SHARES IN PERSON AS SET FORTH IN THIS PROXY STATEMENT.**

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**PROPOSAL ONE**

**RE-ELECTION OF CLASS II DIRECTORS**

Our Board is currently comprised of nine members and divided into three classes, in accordance with Article IV, Section B of our Certificate of Incorporation. Only the terms of the three directors serving as Class II directors are scheduled to expire in 2013. The terms of other directors expire in subsequent years.

On April 28, 2011, we and Total Energies Nouvelles Activités USA, SAS, formerly known as Total Gas & Power USA, SAS ( Total ), a subsidiary of Total S.A. ( Total S.A. ), entered into a Tender Offer Agreement (the Tender Offer Agreement ). Pursuant to the Tender Offer Agreement, on June 21, 2011, Total purchased in a cash tender offer approximately 60% of the outstanding shares of our former class A common stock and 60% of the outstanding shares of our former class B common stock (the Tender Offer ) at a price of \$23.25 per share for each class. In connection with the Tender Offer, we and Total entered into an Affiliation Agreement that governs the relationship between Total and us following the close of the Tender Offer (the Affiliation Agreement ). In accordance with the terms of the Affiliation Agreement, our Board had eleven members, composed of our Chief Executive Officer, four non-Total designated members of the Board, and six directors designated by Total. On the first anniversary of the consummation of the Tender Offer on June 21, 2012, the size of the Board was reduced to nine members and one non-Total designated director, W. Steve Albrecht, and one director designated by Total, Jean-Marc Otero del Val, resigned from the Board. If the Total Group s (as defined in the Affiliation Agreement) ownership percentage declines, the number of members of the Board that Total is entitled to designate will be reduced as set forth in the Affiliation Agreement. Ms. Betsy S. Atkins, a Class II director and an independent director, resigned from the Board effective August 31, 2012, and the Board appointed Catherine Lesjak as a new independent director to fill this vacancy, effective June 6, 2013. Mr. Otero del Val replaced Jérôme Schmitt, a Class I director, as a Total designated director effective April 30, 2013.

The Board has considered and approved the nomination of Bernard Clement, Denis Giorno, and Catherine Lesjak, our current Class II directors, for re-election as directors at the Annual Meeting. Messrs. Clement and Giorno are Total designated directors whose initial appointments and nominations were recommended by Total. Ms. Lesjak is an independent director whose initial appointment was recommended by the third-party search firm of Russell Reynolds Associates. Russell Reynolds Associates was hired by the Board in January 2013 to assist the Board in identifying and evaluating candidates to fill the vacancy left by Ms. Atkins' resignation from the Board in August 2012. In this process, Russell Reynolds Associates identified and evaluated a number of director candidates, whose names were then submitted to our Nominating and Corporate Governance Committee for final evaluation. Ms. Lesjak's nomination for re-election has been recommended by our Nominating and Corporate Governance Committee. Each nominee has consented to being named in this proxy statement and to serve if re-elected. Unless otherwise directed, the proxy holders will vote the proxies received by them for the three nominees named below. If any nominee is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who is designated by the present Board to fill the vacancy. It is not expected that any nominee will be unable or will decline to serve as a director. The Class II directors elected will hold office until the annual meeting of stockholders in 2016 or until their successors are elected.

The Class I group of directors consists of Arnaud Chaperon, Jean-Marc Otero del Val and Pat Wood III, who will hold office until the annual meeting of stockholders in 2015 or until their successors are elected. Messrs. Chaperon and Otero del Val are Total designated directors. The Class III group of directors consists of Thomas R. McDaniel, Humbert de Wendel and Thomas H. Werner, who will hold office until the annual meeting of stockholders in 2014 or until their successors are elected. Mr. de Wendel is a Total designated director.

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Additional information, as of June 10, 2013, about the Class II director nominees for re-election and the Class I and Class III directors is set forth below.

**Class II Directors Nominated for Re-Election at the Annual Meeting**

<b>Name</b>	<b>Class</b>	<b>Age</b>	<b>Position(s) with SunPower</b>	<b>Director Since</b>
Bernard Clement	II	54	Director	2011
Denis Giorno	II	62	Director	2011
Catherine Lesjak	II	54	Director	2013

Mr. Bernard Clement has served as the Senior Vice President, Business & Operations, of the New Energies division of Total S.A. since July 1, 2012. Prior to this appointment, he was Senior Vice President of Gas Assets, Technology, and Research & Development for the Gas & Power division of Total S.A. since January 1, 2010. From 2003 through 2009, Mr. Clement served as Vice President of the Exploration & Production division of Total S.A. relative to its interests in the Middle East. Previous to that, he held other positions within the Total group, where he has been employed since 1983. Mr. Clement has engineering degrees from Ecole Nationale Supérieure du Pétrole et des Moteurs, where he focused on geophysics, and from École Polytechnique.

Mr. Clement brings significant international operational and development experience to the Board. His extensive experience managing international energy projects and assets, as well as managing the development of technology allows him to provide valuable insight into the strategic development of the Company and its ability to meet its manufacturing roadmap. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Clement should serve as a director of the Company.

Mr. Denis Giorno has served as President and General Manager of Total New Energies USA since November 2011. From October 2007 until October 2011, he served as the Vice President of New Ventures for the Gas & Power division of Total S.A. From 2005 to 2007, Mr. Giorno was Vice President, Business Development, of the Gas & Power division relative to Total's interests in Asia, South America, and Africa. Previous to that, he held other positions within the Total group, where he has been employed since 1975. Mr. Giorno received a degree in civil engineering from École Nationale des Ponts et Chaussées, a Master of Science degree in managerial science and engineering from Stanford University and a degree in Petroleum Engineering from École Nationale du Pétrole et des Moteurs. Mr. Giorno also completed the Stanford Graduate School of Business Executive Education program.

Mr. Giorno's extensive, worldwide business development and international negotiation experience covers a broad spectrum of traditional power projects and renewable energy projects, including throughout the value chain in the solar sector. This experience allows him to make significant contributions to the Company's strategic outlook and international development perspectives. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Giorno should serve as a director of the Company.

Ms. Catherine A. Lesjak has served as Executive Vice President and Chief Financial Officer of Hewlett-Packard Company (HP) since January 1, 2007. Ms. Lesjak served as interim Chief Executive Officer of HP from August 2010 through October 2010. As a 27-year veteran at HP, Ms. Lesjak has held a broad range of financial leadership roles across HP. Before being named as CFO, Ms. Lesjak served as Senior Vice President and Treasurer, responsible for managing HP's worldwide cash, debt, foreign exchange, capital structure, risk management and benefits plan administration. Earlier in her career at HP, she managed financial operations for Enterprise Marketing and Solutions and the Software Global Business Unit. Before that, she was group controller for HP's Software Solutions Organization and managed HP's global channel credit risk as controller and credit manager for the Commercial Customer Organization. Ms. Lesjak has a bachelor's degree in biology from Stanford University and a master of business degree in finance from the University of California, Berkeley.

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Ms. Lesjak's extensive experience as the chief financial officer of a major corporation, with significant presence in both the business-to-consumer and business-to-business markets, allows her to make significant contributions to the Company's strategic business planning and execution. Her background is also valuable in financial oversight of the Company and in review of its strategic investments. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Ms. Lesjak should serve as a director of the Company.

**Class III Directors with Terms Expiring in 2014**

<b>Name</b>	<b>Class</b>	<b>Age</b>	<b>Position(s) with SunPower</b>	<b>Director Since</b>
Thomas R. McDaniel	III	64	Director	2009
Humbert de Wendel	III	57	Director	2011
Thomas H. Werner	III	53	President and CEO, Director and Chairman of the Board	2003

Mr. Thomas R. McDaniel was Executive Vice President, Chief Financial Officer and Treasurer of Edison International, a generator and distributor of electric power and investor in infrastructure and energy assets, before retiring in July 2008 after 37 years of service. Prior to January 2005, Mr. McDaniel was Chairman, Chief Executive Officer and President of Edison Mission Energy, a power generation business specializing in the development, acquisition, construction, management and operation of power production facilities. Mr. McDaniel was also Chief Executive Officer and a director of Edison Capital, a provider of capital and financial services supporting the growth of energy and infrastructure projects, products and services, both domestically and internationally. He is Chairman of the Board of Tendril, a smart grid software as a service company. Mr. McDaniel is a director of SemGroup, L.P., a midstream energy service company. He is also on the advisory board of Cypress Envisys, a subsidiary of Cypress Semiconductor Corporation, which develops and markets energy efficiency products. Mr. McDaniel also serves on the Advisory Board of Coda Automotive, which is a manufacturer and distributor of all-electric cars and transportation battery systems, and On Ramp Wireless, a communications company serving electrical, gas and water utilities. Mr. McDaniel currently serves on the board of directors of the Senior Care Action Network (SCAN). Through the McDaniel Family Foundation, he is also actively involved in a variety of charitable activities such as the Boys and Girls Club of Huntington Beach, the Adult Day Care Center and the Free Wheelchair Mission.

Mr. McDaniel brings significant operational and development experience to the Board. Mr. McDaniel's extensive experience growing and operating global electric power businesses is directly aligned with the Company's efforts to expand the utility and power plant segment of the business. In addition, Mr. McDaniel's prior experience as a Chief Financial Officer qualifies him as a financial expert, which is relevant to his duties as an audit committee member. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. McDaniel should serve as a director of the Company and Chairman of the Audit Committee and Chairman of the Finance Committee.

Mr. Humbert de Wendel has served as the Total Group Treasurer since the beginning of 2012. Previously, Mr. de Wendel served as the Senior Vice President of Corporate Business Development for Total from 2006 to 2011. From 2000 to 2006, Mr. de Wendel served as a Vice President for Total overseeing finance operations of its exploration and production subsidiaries. Previous to that, he held other positions within the Total group, where he has been employed since 1982. Mr. de Wendel holds a degree in law and economics from the Institut d'études Politiques de Paris, and a degree in business administration from École Supérieure des Sciences Économiques et Commerciales.

Mr. de Wendel brings extensive international experience in finance and business development to the Board. This experience allows him to bring valuable perspective on the Company's relationships with its key financial and industrial partners. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. de Wendel should serve as a director of the Company.



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Mr. Thomas H. Werner has served as our President and Chief Executive Officer since May 2010, as a member of our Board since June 2003, and Chairman of the Board of Directors since May 2011. From June 2003 to April 2010, Mr. Werner served as our Chief Executive Officer. Prior to joining SunPower, from 2001 to 2003, he held the position of Chief Executive Officer of Silicon Light Machines, Inc., an optical solutions subsidiary of Cypress Semiconductor Corporation. From 1998 to 2001, Mr. Werner was Vice President and General Manager of the Business Connectivity Group of 3Com Corp., a network solutions company. He has also held a number of executive management positions at Oak Industries, Inc. and General Electric Co. Mr. Werner currently serves as a board member of Cree, Inc., Silver Spring Networks, and the Silicon Valley Leadership Group. Mr. Werner is on the Board of Trustees of Marquette University. Mr. Werner holds a bachelor's degree in industrial engineering from the University of Wisconsin Madison, a bachelor's degree in electrical engineering from Marquette University and a master's degree in business administration from George Washington University.

Mr. Werner brings significant leadership and operational management experience to the Board. Mr. Werner provides the Board with valuable insight into management's perspective with respect to the Company's operations. Mr. Werner brings significant technical, operational and financial management experience to the Board. Mr. Werner has demonstrated strong executive leadership skills through nearly 20 years of executive officer service with various companies and brings the most comprehensive view of the Company's operational history over the past few years. Mr. Werner also brings to the Board leadership experience through his service on the board of directors for two other organizations, which gives him the ability to compare the way in which management and the boards operate within the companies he serves. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Werner should serve as a director of the Company.

**Class I Directors with Terms Expiring in 2015**

<b>Name</b>	<b>Class</b>	<b>Age</b>	<b>Position(s) with SunPower</b>	<b>Director Since</b>
Arnaud Chaperon	I	57	Director	2011
Jean-Marc Otero del Val	I	47	Director	2013
Pat Wood III	I	50	Director	2005

Mr. Arnaud Chaperon currently serves as the Senior Vice President of Prospective Analysis, Institutional Relations and Communications for the New Energies division of Total S.A. Before taking this position with the New Energies division in 2007, Mr. Chaperon was the Managing Director for five years of Total E&P Qatar and country representative of the Total group, which has oil, gas, and petrochemical assets and operations in the State of Qatar. Previous to that, he held other positions within the Total group, where he has been employed since 1980. Mr. Chaperon holds a master's degree in engineering from École Nationale Supérieure de Techniques Avancées.

Mr. Chaperon brings significant international strategic, operational and development experience to the Board. His experience developing renewable energy projects and investments throughout the value chain for the Total group, as well as managing traditional oil and gas operations, gives him a unique perspective on the Company's strategic outlook and worldwide opportunities. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Chaperon should serve as a director of the Company.

Mr. Jean-Marc Otero del Val has served as Vice President Strategy & Business Development in the New Energies Division of Total S.A. since July 2012 where he is also the Deputy Senior Vice President of Business Operation. He served as the Vice President, Electricity, for the Gas & Power Division of Total S.A. from September 2011 to June 2012. Mr. Otero del Val previously served as General Manager of the Grandpuits Refinery for Total France S.A. from 2007 to August 2011. From 2003 to 2007, Mr. Otero del Val served as the Managing Director for Total Coal South Africa (Pty) Ltd., a subsidiary of Total S.A. that focuses on the mining of export quality coal in South Africa. Previous to that, he held other positions within the Total S.A. group,

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where he has been employed since 1998. Mr. Otero del Val received a degree in chemical engineering from École Polytechnique, a Bachelor of Arts in finance from Strasbourg University, and a Master of Arts in finance from Paris-Dauphine University. Mr. Otero del Val brings significant international managerial and operational experience to the Board. His extensive experience managing complex industrial assets gives him a unique perspective on the Company's efforts to manage its manufacturing and project development activities. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Otero del Val should serve as a director of the Company.

Mr. Pat Wood III has served as a Principal of Wood3 Resources, an energy infrastructure developer, since July 2005. He is active in the development of electric power and natural gas infrastructure assets in North America. From 2001 to 2005 Mr. Wood served as the Chairman of the Federal Energy Regulatory Commission. From 1995 to 2001, he chaired the Public Utility Commission of Texas. Mr. Wood has also been an attorney with Baker & Botts, a global law firm, and an associate project engineer with Arco Indonesia, an oil and gas company, in Jakarta. He currently serves as Chairman of Dynegy, Inc., and is a director of Quanta Services, Inc. and of Xtreme Power. He is a strategic advisor to Natural Gas Partners, an energy private equity fund, and to Hunt Transmission Services/InfraREIT Capital Partners. Mr. Wood is a past director of the American Council on Renewable Energy and is a member of the National Petroleum Council.

Mr. Wood brings significant strategic and operational management experience to the Board. Mr. Wood has demonstrated strong leadership skills through a decade of regulatory leadership in the energy sector. Mr. Wood brings a unique perspective and extensive knowledge of energy project development, public policy development, governance and the regulatory process. His legal background also provides the Board with a perspective on the legal implications of matters affecting our business. Based on the Board's identification of these qualifications, skills and experiences, the Board has concluded that Mr. Wood should serve as a director of the Company and Chairman of the Nominating and Corporate Governance Committee and the Chairman of the Compensation Committee.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION TO THE BOARD OF EACH OF THE CLASS II PROPOSED NOMINEES.**

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**BOARD STRUCTURE**

**Determination of Independence**

Our Board has determined that three of our nine directors, namely Messrs. McDaniel and Wood and Ms. Lesjak, each meet the standards for independence as defined by applicable listing standards of the Nasdaq Global Select Market and rules and regulations of the SEC. Our Board has also determined that Mr. Werner, our President and Chief Executive Officer, and Messrs. Chaperon, Clement, Giorno, Otero del Val and de Wendel, as directors designated by our controlling stockholder Total Energies Nouvelles Activités USA, SAS, formerly known as Total Gas & Power USA, SAS ( Total ), pursuant to our Affiliation Agreement with Total, are not independent as defined by applicable listing standards of the Nasdaq Global Select Market. There are no family relationships among any of our directors or executive officers.

**Leadership Structure and Risk Oversight**

The Board has determined that having a lead independent director assist Mr. Werner, the Chairman of the Board and Chief Executive Officer, is in the best interest of stockholders at this time. In early 2010, Betsy S. Atkins was appointed to serve as the lead independent director for the Board. Mr. Wood became the lead independent director of the Board in June 2012, replacing Ms. Atkins. This structure ensures a greater role for the independent directors in the oversight of the Company and active participation of the independent directors in setting agendas and establishing priorities and procedures for the work of the Board. We believe that this leadership structure also is preferred by a significant number of our stockholders.

The Board is actively involved in oversight of risks that could affect the Company. This oversight is conducted primarily through committees of the Board, in particular our Audit Committee, as disclosed in the descriptions of each of the committees below and in the charters of each of the committees. The full Board, however, has retained responsibility for general oversight of risks. The Board satisfies this responsibility through full reports by each committee chair regarding the committee's considerations and actions, as well as through regular reports directly from officers responsible for oversight of particular risks within the Company. The Board believes its administration of its risk oversight function has not affected the Board's leadership structure.

**Board Meetings**

Our Board held four regular, quarterly meetings, one annual meeting and five special meetings during fiscal year 2012. During fiscal year 2012, each director (other than Ms. Lesjak, who was appointed in 2013) attended at least 75% of the aggregate number of meetings of the Board and its committees on which such director served. Our independent directors held four executive sessions during regular, quarterly meetings without management present during fiscal year 2012.

**Controlled Company, Nasdaq Listing Standards**

Total presently owns 65% of our outstanding voting securities and we are therefore considered a controlled company within the meaning of the Nasdaq Stock Market rules. As a controlled company, we are presently exempt from the rules that would otherwise require that our Board be comprised of a majority of independent directors and that our Compensation Committee and Nominating and Corporate Governance Committee be composed entirely of independent directors. This controlled company exception does not modify the independence requirements for the Audit Committee, and we comply with the requirements of the Sarbanes-Oxley Act and the Nasdaq Stock Market rules that require that our Audit Committee be comprised exclusively of independent directors.

**Board Committees**

We believe that good corporate governance is important to ensure that we are managed for the long-term benefit of our stockholders. Our Board has established committees to ensure that we maintain strong corporate

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governance standards. Our Board has standing Audit, Compensation, Nominating and Corporate Governance, and Finance Committees. The charters of our Audit, Compensation, Nominating and Corporate Governance, and Finance Committees are available on our website at <http://investors.sunpowercorp.com/documents.cfm>. You may also request copies of our committee charters free of charge by writing to SunPower Corporation, 77 Rio Robles, San Jose, California 95134, Attention: Corporate Secretary. Below is a summary of our committee structure and membership information.

<b>Director</b>	<b>Audit Committee</b>	<b>Compensation Committee</b>	<b>Nominating and Corporate Governance Committee</b>	<b>Finance Committee</b>
Arnaud Chaperon				Member
Bernard Clement			Member	
Denis Giorno			Member	
Catherine Lesjak (I)	Member			Member
Thomas R. McDaniel (I)	Chair	Member	Member	Chair
Jean-Marc Otero del Val		Member		
Humbert de Wendel		Member		Member
Pat Wood III (I)	Member	Chair	Chair	

(I) Indicates an independent director.

**Audit Committee**

Our Audit Committee is a separately-designated standing committee established in accordance with Section 3(a)(58)(A) of the Exchange Act. The Board has determined that each member of our Audit Committee is independent as that term is defined in Section 10A of the Exchange Act and as defined by applicable listing standards of the Nasdaq Global Select Market. Each member of the Audit Committee is financially literate and has the requisite financial sophistication as required by the applicable listing standards of the Nasdaq Global Select Market. Mr. Albrecht, formerly the Chairman of the Audit Committee, resigned from the Board in June 2012, and Mr. McDaniel became the Chairman of the Audit Committee. The Board has determined that each of Ms. Lesjak and Mr. McDaniel meet the criteria of an audit committee financial expert within the meaning of applicable SEC regulations due to their professional experience. Mr. McDaniel's and Ms. Lesjak's relevant professional experience is described above under *Proposal One Re-election of Class II Directors*. The Audit Committee held 11 meetings during fiscal 2012.

The purpose of the Audit Committee, pursuant to its charter, is to:

provide oversight of our accounting and financial reporting processes and the audit of our financial statements and internal controls by our independent registered public accounting firm;

assist the Board in the oversight of: (1) the integrity of our financial statements; (2) our compliance with legal and regulatory requirements; (3) the independent registered public accounting firm's performance, qualifications and independence; and (4) the performance of our internal audit function;

oversee management's identification, evaluation, and mitigation of major risks to the Company;

prepare an audit committee report as required by the SEC to be included in our annual proxy statement;

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provide to the Board such information and materials as it may deem necessary to make the Board aware of financial matters requiring the attention of the Board; and

consider questions of actual and potential conflicts of interest (including corporate opportunities) of Board members and corporate officers and review and approve proposed related party transactions (as defined in Item 404 of Regulation S-K); any waiver of the Code of Business Conduct and Ethics for directors and executive officers and any approval of related party transactions may be made only by the disinterested members of the Audit Committee.

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The Audit Committee also serves as the representative of the Board with respect to its oversight of the matters described below in the *Audit Committee Report*. The Audit Committee has also established procedures for (1) the receipt, retention and treatment of complaints received by us regarding accounting, internal accounting controls or auditing matters, and (2) the confidential, anonymous submission by our employees of concerns regarding accounting or auditing matters. The Audit Committee promptly reviews such complaints and concerns.

### **Compensation Committee**

In August 2012, Ms. Atkins, formerly the Chairman of the Compensation Committee resigned from the Board, and Mr. Wood was appointed to the Compensation Committee as its Chairman in November 2012. Two of the four members of the Compensation Committee, Messrs. McDaniel and Wood, are independent as defined by applicable listing standards of the Nasdaq Global Select Market. Messrs. Otero del Val and de Wendel were designated by Total to be on the Compensation Committee pursuant to our Affiliation Agreement with Total. The Compensation Committee held eight meetings during fiscal 2012.

The Compensation Committee, pursuant to its charter, assists the Board in discharging its duties with respect to:

the formulation, implementation, review, and modification of the compensation of our directors and executive officers;

the preparation of an annual report of the Compensation Committee for inclusion in our annual proxy statement or Annual Report on Form 10-K, in accordance with applicable rules of the SEC and applicable listing standards of the Nasdaq Global Select Market;

reviewing and discussing the Compensation Discussion and Analysis, set forth in our annual proxy statement or Annual Report on Form 10-K, with management;

the establishment of a company compensation philosophy, which may be performance-based, to reward and retain employees based on achievement of goals; and

the administration of our stock plans, including the Third Amended and Restated SunPower Corporation 2005 Stock Incentive Plan. In certain instances, the Compensation Committee has delegated limited authority to Mr. Werner, in his capacity as a Board member, with respect to compensation and equity awards for employees other than our executive officers. For more information on our processes and procedures for the consideration and determination of executive compensation, see *Compensation Discussion and Analysis* below.

### **Compensation Committee Interlocks and Insider Participation**

No member of our Compensation Committee was at any time during fiscal 2012 one of our officers or employees, or is one of our former officers or employees. No member of our Compensation Committee had any relationship requiring disclosure under Item 404 and Item 407(e)(4) of Regulation S-K. Additionally, during fiscal 2012, none of our executive officers or directors was a member of the board of directors, or any committee of the board of directors, or of any other entity such that the relationship would be construed to constitute a compensation committee interlock within the meaning of the rules and regulations of the SEC.

### **Nominating and Corporate Governance Committee**

In August 2012, Ms. Atkins resigned from the Board, and Mr. McDaniel was appointed to the Nominating and Corporate Governance Committee in November 2012. Two of the four members of the Nominating and Corporate Governance Committee, Messrs. McDaniel and Wood, are independent as defined by applicable listing standards of the Nasdaq Global Select Market. Messrs. Clement and Giorno were designated by Total to be on the Nominating and Corporate Governance Committee pursuant to our Affiliation Agreement with Total. The Nominating and Corporate Governance Committee held three meetings during fiscal 2012.



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The Nominating and Corporate Governance Committee, pursuant to its charter, assists the Board in discharging its responsibilities with respect to:

the identification of individuals qualified to become directors and the selection or recommendation of candidates for all directorships to be filled by the Board or by the stockholders;

the evaluation of whether an incumbent director should be nominated for re-election to the Board upon expiration of such director's term, based upon factors established for new director candidates as well as the incumbent director's qualifications, performance as a Board member, and such other factors as the Committee deems appropriate; and

the development, maintenance and recommendation of a set of corporate governance principles applicable to us, and for periodically reviewing such principles.

The Nominating and Governance Committee also considers diversity in identifying nominees for directors. In particular, the Nominating and Governance Committee believes that the members of the Board should encompass a diverse range of talent, skill and expertise sufficient to provide sound and prudent guidance with respect to the Company's operations and interests. In addition, the Nominating and Governance Committee has determined that the Board as a whole must have the right diversity, mix of characteristics and skills for the optimal functioning of the Board in its oversight of the Company.

The Nominating and Governance Committee believes the Board should be comprised of persons with skills in areas such as:

relevant industries, especially solar products and services;

technology manufacturing;

sales and marketing;

leadership of large, complex organizations;

finance and accounting;

corporate governance and compliance;

strategic planning;

international business activities; and

human capital and compensation.



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Under our Corporate Governance Principles, during the director nominee evaluation process, the Nominating and Corporate Governance Committee and the Board will take the following into account:

A significant number of directors on the Board should be independent directors, unless otherwise required by applicable law or the Nasdaq Stock Market rules;

Candidates should be capable of working in a collegial manner with persons of different educational, business and cultural backgrounds and should possess skills and expertise that complement the attributes of the existing directors;

Candidates should represent a diversity of viewpoints, backgrounds, experiences and other demographics;

Candidates should demonstrate notable or significant achievement and possess senior-level business, management or regulatory experience that would benefit the Company;

Candidates shall be individuals of the highest character and integrity;

Candidates shall be free from any conflict of interest that would interfere with their ability to properly discharge their duties as a director or would violate any applicable law or regulation;

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Candidates shall be capable of devoting the necessary time to discharge their duties, taking into account memberships on other boards and other responsibilities; and

Candidates shall have the desire to represent the interests of all stockholders.

**Finance Committee**

Two of the four members of the Finance Committee, Ms. Lesjak and Mr. McDaniel, are independent as defined by applicable listing standards of the Nasdaq Global Select Market. Messrs. Chaperon and de Wendel were designated by Total to be on the Finance Committee pursuant to our Affiliation Agreement with Total. The Finance Committee held 13 meetings during fiscal 2012.

The Finance Committee, pursuant to its charter, assists the Board in discharging its duties with respect to:

The review, evaluation and approval of financing transactions, including credit facilities, structured finance, issuance of debt and equity securities in private and public transactions, and the repurchase of debt and equity securities (other than financing activity exceeding \$50 million which requires the review and approval of the Board);

The review of the Company's annual operating plan for recommendation to the Board, and the monitoring of capital spend as compared to the annual operating plan;

The review and recommendation to the Board of investments, acquisitions, divestitures and other corporate transactions; and

General oversight of the Company's treasury activities, and the review, at least annually, of the Company's counterparty credit risk and insurance programs.

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### **CORPORATE GOVERNANCE**

#### **Stockholder Communications with Board of Directors**

We provide a process by which stockholders may send communications to our Board, any committee of the Board, our non-management directors or any particular director. Stockholders can contact our non-management directors by sending such communications to the chairman of the Nominating and Corporate Governance Committee, c/o Corporate Secretary, SunPower Corporation, 77 Rio Robles, San Jose, California 95134. Stockholders wishing to communicate with a particular Board member, a particular Board committee or the Board as a whole, may send a written communication to our Corporate Secretary, SunPower Corporation, 77 Rio Robles, San Jose, California 95134. The Corporate Secretary will forward such communication to the full Board, to the appropriate committee or to any individual director or directors to whom the communication is addressed, unless the communication is unduly hostile, threatening, illegal, or harassing, in which case the Corporate Secretary has the authority to discard the communication or take appropriate legal action regarding the communication.

#### **Directors Attendance at Our Annual Meetings**

Although we do not have a formal policy that mandates the attendance of our directors at our annual stockholder meetings, our directors are encouraged to attend. All of our nine directors are expected to attend the 2013 Annual Meeting, and eight of our eleven directors attended our annual meeting of stockholders held on May 9, 2012 (the 2012 Annual Meeting ).

#### **Submission of Stockholder Proposal for the 2014 Annual Meeting**

As a SunPower stockholder, you may submit a proposal, including director nominations, for consideration at future annual meetings of stockholders.

**Stockholder Proposals.** Only stockholders meeting certain criteria outlined in our By-laws are eligible to submit nominations for election to the Board or to propose other proper business for consideration by stockholders at an annual meeting. Under the By-laws, stockholders who wish to nominate persons for election to the Board or propose other proper business for consideration by stockholders at an annual meeting must give proper written notice to us not earlier than the 120th day and not later than the 90th day prior to the first anniversary of the preceding year's annual meeting, provided that in the event that our 2014 annual meeting is called for a date that is not within 25 days before or after such anniversary date, notice by the stockholder in order to be timely must be received not later than the close of business on the 10th day following the day on which we mail or publicly announce our notice of the date of the annual meeting, whichever occurs first. Therefore, notices regarding nominations of persons for election to the Board and proposals of other proper business for consideration at the 2014 annual meeting of stockholders must be submitted to the Company no earlier than March 26, 2014 and no later than April 25, 2014. If the date of the 2014 annual meeting is moved more than 25 days before or after the anniversary date of the 2013 Annual Meeting, the deadline will instead be the close of business on the 10th day following notice of the date of the 2014 annual meeting of stockholders or public disclosure of such date, whichever occurs first. We have discretionary power, but are not obligated, to consider stockholder proposals submitted after April 25, 2014.

Stockholder proposals will also need to comply with SEC regulations, such as Rule 14a-8 of the Exchange Act regarding the inclusion of stockholder proposals in any Company-sponsored proxy material. The submission deadline for stockholder proposals to be included in our proxy materials for the 2014 annual meeting of stockholders pursuant to Rule 14a-8 of the Exchange Act is February 7, 2014. All written proposals must be received by our Corporate Secretary, at our corporate offices at 77 Rio Robles, San Jose, California 95134 by the close of business on the required deadline in order to be considered for inclusion in our proxy materials for the 2014 annual meeting of stockholders.

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***Nomination of Director Candidates.*** Our Nominating and Corporate Governance Committee will consider director candidates recommended by our stockholders. Such nominations should be directed to the Nominating and Corporate Governance Committee, c/o Corporate Secretary, SunPower Corporation, 77 Rio Robles, San Jose, California 95134. In addition, the stockholder must give notice of a nomination to our Corporate Secretary, and such notice must be received within the time period described above under *Stockholder Proposals*. Any such proposal must include the following:

the name, age, business address, residence address and record address of such nominee;

the principal occupation or employment of such nominee;

the class or series and number of shares of our stock owned beneficially or of record by such nominee;

any information relating to the nominee that would be required to be disclosed in our proxy statement;

the nominee holder for, and number of, shares owned beneficially but not of record by such person;

whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any derivative or short positions, profit interests, options or borrowed or loaned shares) has been made, the effect or intent of which is to mitigate loss to or manage risk or benefit of share price changes for, or to increase or decrease the voting power of, such person with respect to any share of our stock;

to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director on the date of such stockholder's notice;

a description of all arrangements or understandings between or among such persons pursuant to which the nomination(s) are to be made by the stockholder and any relationship between or among the stockholder giving notice and any person acting in concert, directly or indirectly, with such stockholder and any person controlling, controlled by or under common control with such stockholder, on the one hand, and each proposed nominee, on the other hand; and

a representation that the stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice.

If a director nomination is made pursuant to the process set forth above, the Nominating and Corporate Governance Committee will apply the same criteria in evaluating the nominee as it would any other board nominee candidate, and will recommend to the Board whether or not the stockholder nominee should be included as a candidate for election in our proxy statement. The nominee and nominating stockholder should be willing to provide any information reasonably requested by the Nominating and Corporate Governance Committee in connection with its evaluation. The Board shall make the final determination whether or not a nominee will be included in the proxy statement and on the proxy card for election.

Once either a search firm selected by the Nominating and Corporate Governance Committee or a stockholder has provided our Nominating and Corporate Governance Committee with the identity of a prospective candidate, the Nominating and Corporate Governance Committee communicates the identity and known background and experience of the candidate to the Board. If warranted by a polling of the Board, members of our Nominating and Corporate Governance Committee and/or other members of our senior management may interview the candidate. If the Nominating and Governance Committee reacts favorably to a candidate, the candidate is next invited to interview with the members of the Board who are not on the Nominating and Governance Committee. The Nominating and Governance Committee then makes a

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final determination whether to recommend the candidate to the Board for directorship. The Nominating and Governance Committee currently has not set specific, minimum qualifications or criteria for nominees that it proposes for Board membership, but evaluates the entirety of each candidate's credentials. The Nominating and Governance Committee believes, however, that we will be best served if our directors bring to the Board a

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variety of diverse experience and backgrounds and, among other things, demonstrated integrity, executive leadership and financial, marketing or business knowledge and experience. See *Board Structure Nominating and Corporate Governance Committee* for factors considered by the Nominating and Corporate Governance Committee and the Board in considering director nominees.

### **Corporate Governance Principles**

We believe that strong corporate governance practices are the foundation of a successful, well-run company. The Board has adopted Corporate Governance Principles that set forth our core corporate governance principles, including:

oversight responsibilities of the Board;

election and responsibilities of the lead independent director;

role of Board committees and assignment and rotation of members;

review of the Code of Business Conduct and Ethics and consideration of related party transactions;

independent directors meetings without management and with outside auditors;

Board s access to employees;

annual review of Board member compensation;

membership criteria and selection of the Board;

annual review of Board performance;

director orientation and continuing education;

annual review of performance and compensation of executive officers; and

succession planning for key executive officers.

The Corporate Governance Principles are available on our website at <http://investors.sunpowercorp.com>.

### **Code of Business Conduct and Ethics; Related Persons Transactions Policy and Procedures**

It is our general policy to conduct our business activities and transactions with the highest level of integrity and ethical standards and in accordance with all applicable laws. In addition, it is our policy to avoid situations that create an actual or potential conflict between our interests and the personal interests of our officers and directors. Such principles are described in our Code of Business Conduct and Ethics. Our Code of

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Business Conduct and Ethics is applicable to our directors, officers, and employees (including our principal executive officer, principal financial officer and principal accounting officer) and is designed to promote compliance with the laws applicable to our business, accounting standards, and proper and ethical business methods and practices. Our Code of Business Conduct and Ethics is available on our website at <http://investors.sunpowercorp.com/governance.cfm> under the link for Code of Conduct. You may also request a copy by writing to us at SunPower Corporation, 77 Rio Robles, San Jose, California 95134, Attention: Corporate Secretary. If we amend or grant a waiver applicable to our principal executive officer, principal financial officer or principal accounting officer, we will post a copy of such amendment or waiver on our website. Under the Corporate Governance Principles, the Nominating and Corporate Governance Committee is responsible for reviewing and recommending changes to our Code of Business Conduct and Ethics.

Pursuant to our Corporate Governance Principles and our Audit Committee Charter, our Audit Committee will consider questions of actual and potential conflicts of interest (including corporate opportunities) of directors and officers, and approve or prohibit such transactions. The Audit Committee will review and approve in advance all proposed related party transactions (as defined in Item 404 of Regulation S-K), in compliance with the applicable Nasdaq Stock Market rules. A related party transaction will only be approved if the Audit Committee determines that it is in the best interests of SunPower. If a director is involved in the transaction, he or she will be recused from all voting and approval processes in connection with the transaction.

**Table of Contents****Certain Relationships and Related Persons Transactions**

Other than the compensation agreements and other arrangements described herein, and the transactions described below, since the start of our last fiscal year on January 2, 2012, there has not been, nor is there currently proposed, any transaction or series of similar transactions to which SunPower has been or will be a party:

in which the amount involved exceeded or will exceed \$120,000; and

in which any director, director nominee, executive officer, beneficial owner of more than 5% of any class of our common stock, or any immediate family member of such persons had or will have a direct or indirect material interest.

***Agreements with Total Energies Nouvelles Activités USA, SAS ( Total ) and Total S.A.******Tender Offer Agreement and Tender Offer Agreement Guaranty***

On April 28, 2011, we and Total entered into a Tender Offer Agreement (the Tender Offer Agreement ), pursuant to which, on May 3, 2011, Total commenced a cash tender offer to acquire up to 60% of our outstanding shares of former class A common stock and up to 60% of our outstanding shares of former class B common stock (the Tender Offer ) at a price of \$23.25 per share for each class. The Tender Offer expired on June 14, 2011 and Total accepted for payment on June 21, 2011 a total of 34,756,682 shares of our former class A common stock and 25,220,000 shares of our former class B common stock, representing 60% of each class of outstanding common stock as of June 13, 2011, for a total cost of approximately \$1.4 billion.

Total S.A., the parent company of Total, entered into a Tender Offer Agreement Guaranty in connection with the Tender Offer pursuant to which Total S.A. unconditionally guarantees the full and prompt payment of Total's payment obligations under the Tender Offer Agreement and the full and prompt performance of all of Total's representations, warranties, covenants, duties and agreements contained in the Tender Offer Agreement; provided, that the maximum aggregate liability of Total S.A. under the Tender Offer Guaranty will not be more than the aggregate value at the offer price of the maximum number of shares which may be validly tendered and accepted for payment pursuant to and in accordance with the terms of the Tender Offer Agreement.

***Credit Support Agreement***

On April 28, 2011, we entered into a Credit Support Agreement with Total S.A. The Credit Support Agreement was amended on June 7, 2011 and December 12, 2011. Pursuant to the Credit Support Agreement, subject to the terms and conditions described below, Total S.A., as Guarantor has agreed to enter into one or more guarantee agreements (each a Guaranty ) with banks providing letter of credit facilities to us or our subsidiaries in support of our utility and power plant ( UPP ) and large commercial portion of the residential and commercial segment ( LComm ) businesses and certain other permitted purposes. Pursuant to such Guarantees, Guarantor would guarantee the payment to the applicable bank of our obligation to reimburse a draw on a letter of credit and pay interest thereon in accordance with the letter of credit facility between such bank and us. The Credit Support Agreement became effective on June 28, 2011 (the CSA Effective Date ), and was amended on June 7, 2011, December 12, 2011 and December 14, 2012.

Under the Credit Support Agreement, at any time from the CSA Effective Date until the fifth anniversary thereof, we may request that Guarantor provide a Guaranty with respect to a letter of credit facility. Guarantor is required to issue and enter into the Guaranty requested by SunPower subject to certain terms and conditions, any of which may be waived by Total S.A. These terms and conditions are detailed in the Credit Support Agreement. The aggregate letter of credit amount cannot exceed \$725 million for the period from the CSA Effective Date through December 31, 2012, \$771 million for the period from January 1, 2013 through December 31, 2013, \$878 million for the period from January 1, 2014 through December 31, 2014, \$936 million for the period from January 1, 2015 through December 31, 2015 and \$1 billion for the period from January 1, 2016 through the termination of the Credit Support Agreement (the Maximum L/C Amount ), subject to certain adjustments.



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*Payments to be Paid by the Company to Guarantor.* In consideration for the commitments of Guarantor, we are required to pay Guarantor a guarantee fee, repay any payments made under any Guaranty plus interest, and pay certain expenses of Guarantor and interest on overdue amounts owed to Guarantor. The guarantee fee for each letter of credit that is the subject of a Guaranty and was outstanding for all or part of the preceding calendar quarter will be equal to: (x) the average daily amount of the undrawn amount of such letter of credit plus the amount drawn on such letter of credit that has not yet been reimbursed by us or Guarantor, (y) multiplied by 1.00% for letters of credit issued or extended prior to the second anniversary of the CSA Effective Date, 1.40% for letters of credit issued or extended from the second anniversary of the CSA Effective Date until the third anniversary of the CSA Effective Date, 1.85% for letters of credit issued or extended from the third anniversary of the CSA Effective Date until the fourth anniversary of the CSA Effective Date, and 2.35% for letters of credit issued or extended from the fourth anniversary of the CSA Effective Date until the fifth anniversary of the CSA Effective Date, (z) multiplied by the number of days that such letter of credit was outstanding, divided by 365. We are required to reimburse payments made by Guarantor under any Guaranty within 30 days plus interest at a rate equal to LIBOR (as in effect as of the date of Guarantor's payment) plus 3.00%. The expenses of Guarantor to be reimbursed by us will include reasonable out-of-pocket expenses incurred after the CSA Effective Date in the performance of its services under the Credit Support Agreement and reasonable out-of-pocket attorneys' fees and expenses incurred in connection with payments to a bank under a Guaranty or enforcement of any of our obligations. Overdue payment obligations will accrue interest at a rate per annum equal to LIBOR as in effect at such time such payment was due plus 5.00%. Finally, we are solely responsible for any bank fees incurred in connection with securing any letter of credit facilities. In fiscal 2012, we incurred guaranty fees of \$6.9 million to Total S.A.

*Benchmark Credit Terms.* No later than June 30, 2012 and annually every June 30 thereafter throughout the term of the Credit Support Agreement, and also at any time we desire to obtain a letter of credit facility that would be the subject of a Guaranty, we are required to solicit benchmark credit terms for a letter of credit facility without a Guaranty from Guarantor and without collateral and report those benchmark terms to Guarantor. If (a) the annual fees payable by us on the issued amount of a letter of credit under a proposed letter of credit facility that is not guaranteed by Guarantor are equal to or less than 110% of the annual fees plus any applicable guarantee fee payable to Guarantor pursuant to a guaranteed letter of credit facility under the Credit Support Agreement, (b) the other fees payable under such non-guaranteed letter of credit facility are reasonable in light of the fees payable under a guaranteed letter of credit facility and the anticipated uses of such non-guaranteed letter of credit facility and (c) the other terms and conditions of such non-guaranteed letter of credit facility (including restrictive covenants) are reasonable in light of the anticipated use of such non-guaranteed letter of credit facility, then (i) we will be required to enter into such non-guaranteed letter of credit facility as soon as commercially reasonable, (ii) we will be required to reduce the commitments under guaranteed letter of credit facilities in an amount equal to such non-guaranteed letter of credit facility and (iii) so long as such non-guaranteed letter of credit facility remains in effect, the Maximum L/C Amount during such period will be reduced by the maximum aggregate amount of the letters of credit that may be issued pursuant to such non-guaranteed letter of credit facility. Total S.A. waived the requirement for SunPower to conduct the benchmarking for 2012.

*Covenants of SunPower.* Under the Credit Support Agreement, we have agreed to undertake certain actions, including, but not limited to, ensuring that our payment obligations to Guarantor rank at least equal in right of payment with all of our other present and future indebtedness, other than certain permitted secured indebtedness. We have agreed to refrain from taking certain actions as detailed in the Credit Support Agreement, including (1) amending any agreements related to any guaranteed letter of credit facility, (2) granting any lien to secure indebtedness unless (a) an identical lien is granted to Guarantor and (b) such other lien is at all times equal or subordinate to the priority of the lien granted to Guarantor under (a), and (3) making any equity distributions.

*Trigger Events.* Under the Credit Support Agreement, following a Trigger Event, and during its continuation, Guarantor may elect not to enter into any additional Guaranties; declare all or any portion of the outstanding amounts owed by us to Guarantor to be due and payable; direct banks that have provided guaranteed letter of credit facilities to stop all issuances of any additional letters of credit under such facilities; access and

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inspect our relevant financial records and other documents upon reasonable notice to us; and exercise all other rights it may have under applicable law, provided that at its discretion Guarantor may also rescind such actions.

The following events each constitute a Trigger Event :

we default with respect to our reimbursement obligations to Guarantor described above or any other payment obligation under the Credit Support Agreement that is 30 days overdue for which Guarantor has demanded payment in writing;

any representation or warranty made by us in the Credit Support Agreement is false, incorrect, incomplete or misleading in any material respect when made and has not been cured within 15 days after notice thereof by Guarantor;

we fail, and continue to fail for 15 days, to observe or perform any material covenant, obligation, condition or agreement in the Credit Support Agreement;

we default in the observance or performance of any agreement, term or condition contained in a guaranteed letter of credit facility that would constitute an event of default or similar event thereunder (other than an obligation to pay any amount, the payment of which is guaranteed by Guarantor), up to or beyond any grace period provided in such facility, unless waived by the applicable bank and Guarantor;

we or any of our subsidiaries defaults in the observance or performance of any agreement, term or condition contained in any bond, debenture, note or other indebtedness such that the holders of such indebtedness may accelerate the payment of \$25 million or more of such indebtedness; and

certain bankruptcy or insolvency events.

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

### ***Affiliation Agreement***

In connection with the Tender Offer, we and Total entered into an affiliation agreement (the Affiliation Agreement ). The Affiliation Agreement was amended on June 7, 2011, December 12, 2011, February 28, 2012 and August 10, 2012. The Affiliation Agreement governs the relationship following the closing of the Tender Offer between SunPower, on the one hand, and Total S.A., Total, any other affiliate of Total S.A. and any member of a group of persons formed for the purpose of acquiring, holding, voting, disposing of or beneficially owning our voting stock of which Total S.A. or any of its affiliates is a member (the Total Group ), on the other hand.

*Standstill.* Following the closing of the Tender Offer and during the Standstill Period (as defined below), Total, Total S.A., and the Total Group may not:

effect or seek, or announce any intention to effect or seek, any transaction that would result in the Total Group beneficially owning shares in excess of the Applicable Standstill Limit (as defined below), or take any action that would require us to make a public announcement regarding the foregoing;

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request that (i) we, (ii) our Board members that are independent directors and not appointed to the Board by Total (the Disinterested Directors ), or (iii) our officers or employees, amend or waive any of the standstill restrictions applicable to the Total Group; or

enter into any discussions with any third party regarding any of the foregoing.

In addition, no member of the Total Group may, among other things, solicit proxies relating to the election of directors to the Board without the prior approval of the Disinterested Directors.

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However, the Total Group is permitted to undertake any of the following actions:

until June 21, 2013, and following the written invitation from the Disinterested Directors, either (i) make and consummate a tender offer to acquire 100% of the outstanding voting power of the Company (a Total Tender Offer ) that is approved and recommended by the Disinterested Directors, or (ii) propose and effect a merger providing for the acquisition of 100% of the outstanding voting power of the Company (a Total Merger ) that is approved and recommended by the Disinterested Directors;

from June 22, 2013 until December 31, 2014, either (i) make and consummate a Total Tender Offer that is approved and recommended by the Disinterested Directors or (ii) propose and effect a Total Merger that is approved and recommended by the Disinterested Directors; and

during the period commencing on January 1, 2015 and at any time thereafter, either (i) make and consummate a Total Tender Offer or (ii) propose and effect a Total Merger so long as, in each case, Total complies with certain advance notice and prior negotiation obligations, including providing written notice to us at least 120 days prior to commencing or proposing such Total Tender Offer or Total Merger and making its designees reasonably available for the purpose of negotiation with the Disinterested Directors concerning such Total Tender Offer or Total Merger.

The Standstill Period is the period beginning on the date of the Affiliation Agreement and ending on the earlier to occur of:

a change of control of the Company;

the first time that the Total Group beneficially owns less than 15% of outstanding voting power of the Company;

prior to Total, together with any controlled subsidiary of Total S.A., owning 50% or less of the outstanding voting power of the Company or 40% or less of the outstanding voting power of the Company when at least \$100 million in Guaranties are outstanding under the Credit Support Agreement, we or our Board taking or failing to take certain of the actions described below under Events Requiring Stockholder Approval by Total or failing to comply with certain of the covenants described below under Covenants of Total and SunPower ;

upon the first time that Total, together with any controlled subsidiary of Total S.A. owns 50% or less of the outstanding voting power of the Company or 40% or less of the outstanding voting power of the Company when at least \$100 million in Guarantees are outstanding under the Credit Support Agreement, a tender offer for at least 50% of the outstanding voting power of the Company is commenced by a third party; and

the termination of the Affiliation Agreement.

The Applicable Standstill Limit is the applicable percentage of the lower of (i) the then outstanding shares of our common stock or (ii) the then outstanding voting power of the Company equal to:

63% during the period commencing with the closing of the Tender Offer and ending on June 21, 2013;

66- 2/3% during the period commencing on June 22, 2013 and ending on December 31, 2014; and

70% during the period commencing on January 1, 2015 and continuing thereafter until the termination of the Affiliation Agreement. During the Standstill Period, the Total Group will not be in breach of its standstill obligations described above if any member of the Total Group holds beneficial ownership of shares of our common stock in excess of the Applicable Standstill Limit solely as a result of:

recapitalizations, repurchases or other actions taken by us or our controlled subsidiaries that have the effect of reducing the number of shares of our common stock then outstanding;

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the issuance of shares of our common stock to Total in connection with the acquisition of Tenesol SA;

the rights specified in any poison pill share purchase rights plan having separated from the shares of our common stock and a member of the Total Group having exercised such rights; or

the issuance of voting securities to Total, including from the conversion into voting securities of convertible securities, in connection with the Compensation and Funding Agreement or the Liquidity Support Agreement (each as described below).

*Transfer of Control.* If any member or members of the Total Group seek to transfer, in one or a series of transactions, either (i) 40% or more of the outstanding shares of our common stock or (ii) 40% or more of the outstanding voting power of the Company to a single person or group, then such transfer must be conditioned on, and may not be effected, unless the transferee either:

makes a tender offer to acquire 100% of the voting power of the Company, at the same price per share of voting stock and using the same form of consideration to be paid by the transferee to the Total Group; or

proposes a merger providing for the acquisition of 100% of the voting power of the Company, at the same price per share of voting stock and using the same form of consideration to be paid by the transferee to the Total Group.

*Total's Rights to Maintain.* The Total Group has the following rights to maintain its ownership in us until (i) the first time that the Total Group owns less than 40% of the outstanding voting power of the Company, or (ii) until the first time that Total transfers shares of our common stock to a person other than Total S.A. or a controlled subsidiary of Total S.A. and as a result of such transfer Total S.A. and its subsidiaries own less than 50% of the outstanding voting power of the Company.

If we propose to issue new securities primarily for cash in a financing transaction, then Total has the right to purchase a portion of such new securities equal to its percentage ownership in us. Total can also elect to purchase our securities in open market transactions or through privately-negotiated transactions in an amount equal to its percentage ownership in connection with such issuance of new securities. If we propose to issue new securities in consideration for our purchase of a business or asset of a business, then Total has the right to purchase additional securities in the open market or through privately-negotiated transactions equal to its percentage ownership in us. Total has similar rights in the event that we issue or propose to issue (including pursuant to our equity plans or as the result of the conversion of our convertible securities) securities that, together with all other issuances of securities by us since the end of the preceding fiscal quarter aggregate to more than 1% of our fully diluted equity. Total has a nine month grace period, subject to certain extensions to satisfy regulatory conditions, to acquire securities in the open market or through privately-negotiated transactions in connection with any of the securities issuances described above.

*SunPower Board.* The Affiliation Agreement provides that, immediately after the consummation of the Tender Offer, our Board will be expanded to eleven persons, composed of the Chief Executive Officer (who will also serve as the Chairman of the Board), four current members of the board and six directors designated by Total. See Proposal One for more details on our current Board members.

On the first anniversary of the completion of the Tender Offer (i) the Disinterested Directors are obligated to cause one of the Disinterested Directors to resign from the board, (ii) upon the effectiveness of such resignation, Total will promptly cause one of the directors previously designated by it to resign, and (iii) thereafter, the Board will take all action necessary to reduce the number of authorized members of the Board to nine directors (such actions, a Board Reduction Event). On June 21, 2012, the Board Reduction Event occurred and the authorized size of our Board was reduced to nine directors.

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So long as Total, together with the controlled subsidiaries of Total S.A., owns at least 10% of the outstanding voting power of the Company, then our Board must use its reasonable best efforts to elect the directors designated by Total as follows:

until the first time that Total, together with controlled subsidiaries of Total S.A., own less than 50% of the voting power of the Company, Total will be entitled to designate six nominees to serve on our Board until the Board Reduction Event, and five nominees to serve on our Board thereafter;

until the first time that Total, together with controlled subsidiaries of Total S.A., own less than 50% but not less than 40% of the voting power of the Company, Total will be entitled to designate five nominees to serve on our Board until the Board Reduction Event, and four nominees to serve on our Board thereafter;

until the first time that Total, together with controlled subsidiaries of Total S.A., own less than 40% but not less than 30% of the voting power of the Company, Total will be entitled to designate four nominees to serve on our Board until the Board Reduction Event, and three nominees to serve on our Board thereafter

until the first time that Total, together with controlled subsidiaries of Total S.A., own less than 30% but not less than 20% of the voting power of the Company, Total will be entitled to designate three nominees to serve on our Board until the Board Reduction Event, and two nominees to serve on our Board thereafter; and

until the first time that Total, together with controlled subsidiaries of Total S.A., own less than 20% but not less than 10% of the voting power of the Company, Total will be entitled to designate two nominees to serve on our Board until the Board Reduction Event, and one nominee to serve on our Board thereafter.

For as long as they are serving on our Board, the directors designated by the Total Group will be allocated across the three classes that comprise our Board in a manner as equal as practicable.

Subject to the listing standards of the Nasdaq Global Select Market, until the first time that Total, together with any controlled subsidiaries of Total S.A., owns less than 30% of the outstanding voting power of the Company:

the Audit Committee will be comprised of three Disinterested Directors;

the Compensation Committee and the Nominating and Governance Committee will each be comprised of two Disinterested Directors and two directors designated by the Total Group; and

any other standing committee will be comprised of two Disinterested Directors and two directors designated by the Total Group. Until the first time that Total, together with any controlled subsidiaries of Total S.A., own less than 10% of the outstanding voting power of the Company, a representative of Total will, subject to certain exceptions, be permitted to attend all meetings of our Board or any committee thereof in a non-voting, observer capacity (other than any committee whose sole purpose is to consider a transaction for which there exists an actual conflict of interest between the Total Group, on the one hand, and the Company and any of our affiliates, on the other hand).

*Events Requiring Specific Board Approval.* At any time when Total, together with any controlled subsidiaries of Total S.A., owns at least 30% of the outstanding voting power of the Company, neither the Total Group nor the Company (or any of our affiliates) may effect any of the following without first obtaining the approval of a majority of the Disinterested Directors:

any amendment to our Certificate of Incorporation or By-laws;

any transaction that, in the reasonable judgment of the Disinterested Directors, involves an actual conflict of interest between the Total Group, on the one hand, and the Company and any of our affiliates, on the other hand;



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the adoption of any shareholder rights plan or the amendment or failure to renew our existing shareholder rights plan;

except as provided above, the commencement of any tender offer or exchange offer by the Total Group for shares of our common stock or securities convertible into shares of our common stock, or the approval of a merger of SunPower or any company that we control with a member of the Total Group;

any voluntary dissolution or liquidation of the Company or any company that we control;

any voluntary bankruptcy filing by the Company or any company that we control or the failure to oppose any other person's bankruptcy filing or action to appoint a receiver of the Company or any company that we control;

any delegation of all or a portion of the authority of our Board to any committee thereof;

any amendment, modification or waiver of any provision of the Affiliation Agreement;

any modification of, or action with respect to, director's and officer's insurance coverage; or

any reduction in the compensation of the Disinterested Directors.

*Events Requiring Supermajority Board Approval.* At any time when Total, together with any controlled subsidiaries of Total, own at least 30% of the outstanding voting power of the Company, neither the Total Group nor the Company (or any of our affiliates) may, without first obtaining the approval of two-thirds of the directors of the Company (including at least one Disinterested Director), effect any approval or adoption of our annual operating plan or budget that has the effect of reducing the planned letter of credit utilization in any given year by more than 10% below the applicable maximum letter of credit amount in the Credit Support Agreement.

*Events Requiring Stockholder Approval by Total.* Until the first time that Total, together with any controlled subsidiaries of Total, owns 50% or less of the outstanding voting power of the Company or 40% or less of the outstanding voting power of the Company (a) when at least \$100 million in Guarantees are outstanding pursuant to the Credit Support Agreement or (b) for so long as the Liquidity Support Agreement (as described below) remains in effect and, thereafter, for so long as (1) any loans by Total S.A. to the Company remain outstanding, (2) any guarantees by Total S.A. of any of our indebtedness remain outstanding, or (3) any other continuing obligation of Total S.A. to or for the benefit of SunPower remain outstanding ( Total Stockholder Approval Period ), neither the Company (including any of our controlled subsidiaries) nor the Board may effect any of the following without first obtaining the approval of Total:

any amendment to our Certificate of Incorporation or By-laws;

any transaction pursuant to which the Company or any company that we control acquires or otherwise obtains the ownership or exclusive use of any business, property or assets of a third party if as of the date of the consummation of such transaction the aggregate net present value of the consideration paid or to be paid exceeds the lower of (i) 15% of our then-consolidated total assets or (ii) 15% of our market capitalization;

any transaction pursuant to which a third party obtains ownership or exclusive use of any business, property or assets of the Company or any company that we control if as of the date of the consummation of such transaction the aggregate net present value of the consideration received or to be received exceeds the lower of (i) 10% of our then-consolidated total assets or (ii) 10% of our market capitalization;

the adoption of any shareholder rights plan or certain changes to our existing shareholder rights plan;

except for the incurrence of certain permitted indebtedness, the incurrence of additional indebtedness in excess of the difference, if any, of 3.5 times our LTM EBITDA (as defined in the Affiliation Agreement) less our Outstanding Gross Debt (as defined in the Affiliation Agreement);

subject to certain exceptions, any voluntary dissolution or liquidation of the Company or any company that we control;

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any voluntary bankruptcy filing by the Company or any company that we control or the failure to oppose any other person's bankruptcy filing or action to appoint a receiver of the Company or any company that we control; or

any repurchase of our common stock.

*Certain Matters Related to SunPower's Shareholder Rights Plan.* Until the Total Group beneficially owns less than 15% of the outstanding voting power of the Company, neither the Company nor our Board is permitted to adopt any shareholder rights plan or make certain changes to our existing shareholder rights plan without the approval of Total.

*Covenants of Total and SunPower.* In order to effect the transactions contemplated by the Affiliation Agreement, each of Total and the Company have committed to taking certain actions. With respect to the Company, such actions include:

amending our By-laws to provide that the Total Group may call a special meeting of stockholders in certain circumstances;

taking certain actions to exculpate Total S.A., Total, any controlled subsidiary of Total S.A. and those of our directors designated by Total from corporate opportunities, to the fullest extent permitted by applicable law;

taking certain actions to render Delaware's business combination statute inapplicable to the Total Group and certain future transferees of the Total Group;

making certain amendments to our shareholder rights plan, including excluding the Total Group from the definition of "Acquiring Person" under such plan;

renewing our existing shareholder rights plan so long as the Total Group beneficially owns at least 15% of our outstanding voting power; and

providing Total with certain financial information of the Company from time to time.

*Termination.* The Affiliation Agreement generally terminates upon the earlier to occur of (i) the Total Group owning less than 10% of the outstanding voting power of the Company or (ii) the Total Group owning 100% of the outstanding voting power of the Company.

*Reimbursement.* We have a reimbursement arrangement with Total pursuant to the Affiliation Agreement, under which Total shall reimburse certain costs that we incur for our acceleration of the accounting close process and implementation of International Financial Reporting Standards. This arrangement facilitates our implementation of accounting and reporting systems in order to timely report monthly financial results to Total pursuant to the Affiliation Agreement. In fiscal 2012, we received \$4.5 million from Total under this reimbursement arrangement. We expect to receive \$210,000 from Total in 2013 under this arrangement.

### ***Affiliation Agreement Guaranty***

Total S.A. has entered into a guaranty (the "Affiliation Agreement Guaranty") in connection with the Tender Offer and entry into the Affiliation Agreement, pursuant to which Total S.A. unconditionally guarantees the full and prompt payment of Total S.A.'s, Total's and each Total S.A. controlled company's payment obligations under the Affiliation Agreement and the full and prompt performance of their respective representations, warranties, covenants, duties and agreements contained in the Affiliation Agreement.

### ***Research & Collaboration Agreement***

In connection with the Tender Offer, we and Total entered into a Research & Collaboration Agreement (the "R&D Agreement") that establishes a framework under which the parties may engage in long-term research and development collaboration (the "R&D Collaboration"). The R&D

Collaboration is expected to encompass a

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number of different projects ( R&D Projects ), with a focus on advancing technology in the area of photovoltaics. The primary purpose of the R&D Collaboration is to: (i) maintain and expand our technology position in the crystalline silicon domain; (ii) ensure our industrial competitiveness; and (iii) guarantee a sustainable position for both SunPower and Total to be best-in-class industry players.

The R&D Agreement contemplates a joint committee (the R&D Strategic Committee ) that identifies, plans and manages the R&D Collaboration. Due to the impracticability of anticipating and establishing all of the legal and business terms that will be applicable to the R&D Collaboration or to each R&D Project, the R&D Agreement sets forth broad principles applicable to the parties' potential R&D Collaboration, and the R&D Collaboration Committee establishes the particular terms governing each particular R&D Project consistent with the terms set forth in the R&D Agreement. In December 2011, Total committed to spend at least \$6 million per year for three years for the R&D collaboration activities. The parties also agreed to a 2012 Annual Collaboration Plan Budget ( ACPB ) of \$30 million of which Total was to contribute \$10.7 million. Total contributed approximately \$3.4 million in 2012. The overall 2013 ACPB is \$23 million of which Total has agreed to contribute approximately \$11 million. This amount carries forward certain 2012 project expenditures that were not completed due primarily to delays in our recruiting efforts and third party contract negotiations.

***Registration Rights Agreement***

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

The Registration Rights Agreement was amended on May 29, 2013, in connection with the issuance of our 0.75% Senior Convertible Debentures due 2018, to provide that the debentures and our common stock underlying the debentures were registrable securities within the meaning of the Registration Rights Agreement.

***Stockholder Rights Plan***

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

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

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**Table of Contents*****By-laws Amendment***

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

***Tenesol Stock Purchase Agreement***

On December 23, 2011, we entered into a Stock Purchase Agreement with Total, under which we agreed to acquire 100% of the equity interests of Tenesol SA (Tenesol) from Total for \$165.4 million in cash. The Tenesol acquisition was consummated on January 31, 2012. Tenesol is a European-based manufacturer and developer of solar projects with module manufacturing operations in France and South Africa.

***Private Placement Agreement***

Contemporaneously with the execution of the Tenesol Stock Purchase Agreement, we entered into a Private Placement Agreement with Total, under which Total agreed to purchase, and we agreed to issue and sell 18.6 million shares of our common stock for a purchase price of \$8.80 per share. The sale was completed contemporaneously with the closing of the Tenesol acquisition on January 31, 2012, thereby increasing Total's ownership to approximately 66% of outstanding common stock.

***Master Agreement***

On December 23, 2011, we also entered into a Master Agreement with Total, under which we and Total agreed to a framework of transactions related to the Tenesol acquisition and Private Placement Agreement. Additionally, Total has agreed to pursue several negotiations on additional agreements related to directly investing in our R&D program over a multi-year period, the purchase of our modules and the development of a multi-megawatt project using our products. We and Total amended the Master Agreement on December 20, 2012 to clarify that the development of the multi-megawatt project using our products shall mean development of up to 10 C-7 Tracker demonstration projects at a total cost to Total of not more than \$2.5 million provided agreements for such projects are entered into before December 31, 2013.

***Liquidity Support Agreement***

SunPower Corporation, Systems, a Delaware corporation and an indirect wholly owned subsidiary of the Company (SunPower Systems), is providing engineering, procurement and construction (EPC) services, as well as solar panels and power plant technology, to the California Valley Solar Ranch (CVSR), a 250 MW AC solar power plant that is currently under construction. SunPower Systems is performing this work under an Engineering, Procurement and Construction Agreement, dated as of September 30, 2011 (the EPC Contract), between SunPower Systems, and High Plains Ranch II, LLC, a Delaware limited liability company (HPR II). HPR II is the CVSR project company sold by the Company to NRG Solar LLC in September 2011. Part of the debt financing necessary for SunPower Systems' customer, NRG Solar LLC, to pay for the construction of the CVSR project is being provided by the Federal Financing Bank in reliance on a guarantee of repayment provided by the United States Department of Energy (DOE) under a loan guarantee program. In late 2011, the DOE requested that the Company, as the EPC contractor for the CVSR project, provide additional financial assurances to support SunPower System's obligations under the EPC Contract in connection with the project's loan.

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guarantee. In response, on February 28, 2012, we and Total S.A. entered into a Liquidity Support Agreement with the DOE, under which Total S.A. agreed to provide us, or cause to be provided, additional liquidity under certain circumstances up to an aggregate amount of \$600 million. In connection with the Liquidity Support Agreement, we, Total S.A., and Total entered into a series of related agreements (the Liquidity Support Transaction Agreements) to establish the parameters for the terms of the liquidity support to be provided by Total S.A. and Total, including the parameters for the terms of any liquidity injections that may be required to be provided to the Company under the Liquidity Support Agreement.

The Liquidity Support Agreement provides that, subject to the terms and conditions set forth therein, upon a Liquidity Support Event (defined below), Total S.A. will make available, as of the date of the Liquidity Support Agreement, and provide to us from time to time various forms of equity, debt (both convertible and non-convertible), guarantee or other liquidity support (Liquidity Injections), as may be required to increase the amount of our unrestricted cash, cash equivalents and unused borrowing capacity, and to ensure our satisfaction of our financial covenants under certain third party indebtedness, up to the maximum aggregate amount of \$600 million (the Liquidity Support Facility). A Liquidity Support Event occurs when (a) our unrestricted cash and cash equivalents shown on our balance sheet plus any unused availability under any committed credit that is available to us (Reported Liquidity) is below \$100 million in a completed fiscal quarter, or our projected liquidity measured in the same manner for the next fiscal quarter (Projected Liquidity) is below \$100 million; or (b) at any time during a fiscal quarter, we fail to satisfy any financial covenant under our indebtedness. Upon a Liquidity Support Event, Total S.A. is required to provide to us, and we are required to accept from Total S.A., a Liquidity Injection sufficient to (a) cause our Reported Liquidity and Projected Liquidity to be at least \$100 million, or, as applicable, (b) to cure any breach and satisfy the applicable financial covenant in our indebtedness. The terms and conditions of such Liquidity Support Facility are set forth in the Liquidity Support Transaction Agreements, including a Compensation and Funding Agreement, a Revolving Credit and Convertible Loan Agreement, and a Private Placement Agreement, each as described below. On December 24, 2012, Total S.A. agreed to guarantee our Credit Agricole Facility Agreement (defined below), which reduced the capacity available under the liquidity support facility by \$275.0 million.

The Liquidity Support Agreement will terminate, all outstanding guarantees issued thereunder will terminate, and all outstanding loans made thereunder will become due (except for Total S.A.'s guarantee of the Credit Agricole facility), upon the earliest to occur of (i) the final completion date of the CVSR project as defined under the EPC Contract, (ii) the date of December 31, 2015, as may be extended under certain circumstances as described in the EPC Contract, but not beyond December 31, 2016, (iii) the date on which all secured obligations, as defined under that certain Loan Guarantee Agreement, dated as of September 30, 2011, between the DOE and HPR II, have been paid in full and all commitments to extend credit as set forth therein in connection with the CVSR project have been terminated, and (iv) the date on which SunPower Systems terminates the EPC Contract.

### ***Compensation and Funding Agreement***

In connection with the Liquidity Support Agreement, on February 28, 2012, we entered into a Compensation and Funding Agreement (the Compensation and Funding Agreement) with Total S.A., pursuant to which, among other things, we and Total S.A. established the parameters for the terms of the Liquidity Support Facility and any Liquidity Injections that may be required to be provided by Total S.A. to us pursuant to the Liquidity Support Agreement (the Liquidity Support Arrangements). We agreed in the Compensation and Funding Agreement to use commercially reasonable efforts to assist Total S.A. in the performance of its obligations under the Liquidity Support Agreement and to conduct, and to act in good faith in conducting, our affairs in a manner such that Total S.A.'s obligation under the Liquidity Support Agreement to provide Liquidity Injections will not be triggered or, if triggered, will be minimized. We also agreed to use any cash provided under the facility in such a way as to minimize the need for further liquidity support.

*Upfront Payment Obligations.* On February 28, 2012, in consideration for Total S.A.'s agreement to enter into the Liquidity Support Agreement and for Total S.A.'s commitments set forth in the Liquidity Support

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Agreement, we issued to Total a warrant (the *Upfront Warrant*), in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable to purchase 9,531,677 shares of our common stock at an exercise price of \$7.8685 per share, subject to adjustment for customary anti-dilution and other events. The *Upfront Warrant* is exercisable at any time for seven years after its issuance, provided that, so long as at least \$25 million of our existing convertible debt remains outstanding, such exercise will not cause any person, including Total S.A., to, directly or indirectly, including through one or more wholly-owned subsidiaries, become the *beneficial owner* (as such terms are defined in Rule 13d-3 and Rule 13d-5 under the Securities and Exchange Act of 1934, as amended), of more than 74.99% of the voting power of our common stock at such time, because any person becoming such *beneficial owner* would trigger the repurchase or conversion of our existing convertible debt.

*Ongoing Payment Obligations.* The Compensation and Funding Agreement further provides that, subject to the terms and conditions set forth therein, we will make certain cash payments to Total S.A. within 30 days after the end of each calendar quarter during the term of the Compensation and Funding Agreement as follows:

Quarterly payment of a commitment fee in an amount equal to 0.25% of the unused portion of the \$600 million Liquidity Support Facility as of the end of such quarter; and

Quarterly payment of a guarantee fee in an amount equal to 2.75% per annum of the average amount of our indebtedness that is guaranteed by Total S.A. pursuant to any Guaranty (as defined below) issued in accordance with the terms of the Compensation and Funding Agreement during such quarter.

In addition, any of our payment obligations to Total S.A. under the Compensation and Funding Agreement that are not paid when due shall accrue interest until paid in full at a rate equal to 6-months U.S. LIBOR as in effect from time to time plus 5.00% per annum. In fiscal 2012, we incurred commitment fees of \$4.9 million to Total S.A.

*Form of Liquidity Support.* In the event that Total S.A. becomes obligated to provide a Liquidity Injection to us in a Liquidity Support Event pursuant to the Liquidity Support Agreement, the Compensation and Funding Agreement sets forth the form of such Liquidity Injection based on the greatest *Drawn Support Amount* (defined in the Liquidity Support Agreement) that has been outstanding at any time prior to the date of determination (the *Maximum Drawn Support Amount*) at such time, as follows:

(i) To the extent that the *Maximum Drawn Support Amount* at such time is equal to or less than \$60 million, the Liquidity Injection shall be, at Total S.A.'s option, in the form of a revolving, non-convertible debt facility (a *Revolving Loan*) pursuant to the terms of the Revolving Credit and Convertible Loan Agreement, a Total S.A. Guaranty (defined below), or any other form of Liquidity Injection agreed to by us. In addition, at the time of funding of each such *Revolving Loan*, we will issue to or as directed by Total S.A. a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of our common stock equal to 20% of the amount of such *Revolving Loan* divided by the volume-weighted average price for our common stock for the 30 trading-day period ending on the trading day immediately preceding the date of calculation (the *30-Day VWAP*) as of the date of funding of such *Revolving Loan*. Notwithstanding the foregoing, the aggregate exercise price of warrants issued in connection with *Revolving Loans* may not exceed 20% of the maximum aggregate amount of *Revolving Loans* that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement. Interest payable on the *Revolving Loan* shall be 6-months U.S. LIBOR plus 5% per annum when the *Maximum Drawn Support Amount* is equal to or less than \$60 million, 6-months U.S. LIBOR plus 7% per annum when the *Maximum Drawn Support Amount* is greater than \$60 million but less than or equal to \$200 million, and 6-months U.S. LIBOR plus 8% per annum when the *Maximum Drawn Support Amount* is greater than \$200 million.

(ii) To the extent that the *Maximum Drawn Support Amount* at such time is greater than \$60 million but equal to or less than \$200 million, Total may, at its sole discretion, convert any *Revolving Loan* into a convertible debt facility (a *Convertible Loan*), pursuant to the terms of the Revolving Credit and Convertible Loan Agreement, and any future Liquidity Injections will be, at Total S.A.'s option, in the form of a *Convertible*



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Loan, a Total S.A. Guaranty (defined below), or any other form of Liquidity Injection agreed to by us. Each Convertible Loan will be convertible into our common stock at a conversion price equal to the amount of debt being converted, divided by the closing price of our common stock on the trading day immediately preceding the conversion date at the option of Total S.A. at any time after (A) the Convertible Loan has not been repaid within 6 months; (B) our debt to EBITDA ratio exceeds 3.5 to 1.0 (or for the 2012 fiscal year, 4.0 to 1.0); or (C) any time the Maximum Drawn Support Amount exceeds \$200 million. In addition, at the time of funding of each such Convertible Loan, we will issue to or as directed by Total S.A. a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of our common stock equal to 25% of the amount of such Convertible Loan (if the Maximum Drawn Support Amount at such time is not in excess of \$200 million) or 35% of the amount of such Convertible Loan (to the extent that the Maximum Drawn Support Amount at such time is in excess of \$200 million), in each case, divided by the 30-Day VWAP as of the date of funding of such Convertible Loan. Notwithstanding the foregoing, the aggregate exercise price of warrants issued in connection with Convertible Loans up to \$140 million may not exceed 25% of the maximum aggregate amount of such Convertible Loans that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement, and the aggregate exercise price of warrants issued in connection with Convertible Loans in excess of \$140 million may not exceed 35% of the maximum aggregate amount of such Convertible Loans that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement. Interest payable on the Convertible Loan shall be 6-months U.S. LIBOR plus 7% per annum for any Convertible Loan outstanding when the Maximum Drawn Support Amount is less than or equal to \$200 million, and 6-months U.S. LIBOR plus 8% per annum when the Maximum Drawn Support Amount is greater than \$200 million.

(iii) If the Maximum Drawn Support Amount at such time exceeds \$200 million, or if our debt to EBITDA ratio exceeds 3.5 to 1.0 (or, for the 2012 fiscal year, 4.0 to 1.0), the Liquidity Injection will be in the form selected by Total S.A., at its complete discretion, as an additional Revolving Loan, an additional Convertible Loan, a purchase of our equity securities, pursuant to the terms of the Private Placement Agreement (as described below), a guaranty by Total S.A. of our indebtedness, pursuant to the form Guaranty set forth as Exhibit B to the Compensation and Funding Agreement (a Guaranty), or another form of Liquidity Injection acceptable to the applicable lender. We shall issue to Total S.A. warrants in connection with additional Revolving Loans or Convertible Loans as described above. If such Liquidity Injection is in the form of a purchase of equity securities, then we will issue to or as directed by Total S.A. a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of our common stock equal to 25% of the amount of such Liquidity Injection divided by the 30-Day VWAP as of the date of such Liquidity Injection. Any common stock sold to Total S.A. under the Private Placement Agreement will be priced at a 17% discount from the 30-Day VWAP as of the date such common stock is sold, and may be rounded up, at Total S.A.'s option, from the required amount of such Liquidity Injection to the next integral multiple of \$25 million.

No warrants issued shall be exercisable so long as at least \$25 million of our existing convertible debt remains outstanding and such exercise will cause any person, including Total S.A., to, directly or indirectly, including through one or more wholly-owned subsidiaries, become the beneficial owner of more than 74.99% of the voting power of our common stock at such time. Loans made by Total S.A. under the Compensation and Funding Agreement shall be prepayable by us in agreed increments, so long as after giving effect to any such prepayment our Reported Liquidity and Project Liquidity would be at least \$125 million.

Notwithstanding the foregoing, if the incurrence of any such debt or issuance of any such warrants or equity securities would trigger a default under the terms of any of our existing debt agreements in an amount greater than \$10 million, Total S.A. will have the option, in its reasonable discretion, to provide a Liquidity Injection in an alternative form so as not to cause us to be in breach or default of any of our debt agreements. Notwithstanding the limitations on the form of Liquidity Injections described above, in connection with an actual or potential breach by us of our covenants under our Revolving Credit Agreement with Credit Agricole Corporate and Investment Bank (the Credit Agricole Facility Agreement), Total S.A. may make Liquidity Injections in the form of equity purchases sufficient to provide us with an equity cure under the Credit Agricole Facility Agreement, plus up to an

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additional \$25 million of equity purchases. In addition to the provision of any equity cure, Total S.A. may also in such event elect to lend money to us, in the form of Revolving Loans or Convertible Loans as described above, in order to repay amounts owing under the Credit Agricole Facility Agreement. Notwithstanding the interest rates described above, any such debt would bear interest at a rate of LIBOR plus 4.25% per annum until September 27, 2013, and would thereafter bear interest at the rates described above, depending on the Maximum Drawn Support Amount.

If Total S.A. is required to make any payment to a lender under a Guaranty, and if we do not repay such payment to Total S.A. within 30 days, the amount of such payment, plus interest, shall be convertible, at Total S.A.'s option, into a Revolving Loan, a Convertible Loan or a purchase of equity pursuant to the Private Placement Agreement, in each case upon notice from Total S.A. to us and in each case with warrant coverage as described above.

*Termination.* The Compensation and Funding Agreement will remain in effect as long as (i) any obligations of the Company remain outstanding under the Revolving Credit and Convertible Loan Agreement or the Private Placement Agreement, (ii) any obligations of Total S.A. remain outstanding under any Guaranty, or (iii) Total S.A. has any obligation to provide Liquidity Injections pursuant to the Liquidity Support Agreement.

### ***Revolving Credit and Convertible Loan Agreement***

In connection with the Liquidity Support Agreement, on February 28, 2012, we and Total entered into a Revolving Credit and Convertible Loan Agreement which establishes the terms and conditions for any Revolving Loans or Convertible Loans that may be provided to us pursuant to the Compensation and Funding Agreement described above. All Revolving Loans and Convertible Loans shall accrue interest as described above. All Revolving Loans shall be in an initial principal amount that is an integral multiple of \$1 million and not less than \$5 million, or the amount remaining available under the \$600 million Liquidity Support Facility. All Convertible Loans shall be in an initial principal amount that is an integral multiple of \$1 million and not less than \$10 million, or the amount remaining available under the \$600 million Liquidity Support Facility. All Revolving Loans or Convertible Loans must rank pari passu with our existing senior indebtedness, and secured to the fullest extent permitted by the Company's debt agreements. Total may demand prepayment of any Revolving Loans and/or Convertible Loans, provided that after such prepayment, we would maintain our Reported Liquidity of at least \$150 million and would not be in default of any financial covenant under our indebtedness; after the expiration of the Compensation and Funding Agreement, Total may demand prepayment without regard to these conditions.

### ***Private Placement Agreement***

In connection with the Liquidity Support Agreement, on February 28, 2012, we and Total entered into a Private Placement Agreement, pursuant to which we will issue and sell to Total, and Total will purchase from us, our common stock or warrants to purchase our common stock with respect to each Liquidity Injection as specified by the terms of the Compensation and Funding Agreement. The number of warrant shares and exercise price will be calculated in accordance with the Compensation and Funding Agreement, and any common stock sold under the Private Placement Agreement will be priced at a 17% discount from the 30-Day VWAP as of the date such common stock is sold.

The Tender Offer Agreement, Tender Offer Agreement Guaranty, Credit Support Agreement, Affiliation Agreement, Affiliation Agreement Guaranty, Research and Collaboration Agreement, Registration Rights Agreement, Rights Agreement Amendment, Second Rights Agreement Amendment and By-laws, and amendments thereto, are attached to, and more fully described in, our Form 8-Ks as filed with the SEC on May 2, 2011, June 7, 2011, June 15, 2011 and December 23, 2011, our Solicitation/Recommendation Statement on Form 14D-9 filed with the SEC on May 3, 2011, and our Form 10-Q as filed with the SEC on November 2, 2012. The Tenesol Stock Purchase Agreement, the Private Placement Agreement and the Master Agreement are

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attached to, and more fully described in, our Form 8-K filed with the SEC on December 23, 2011 and Information Statement on Schedule 14C filed with the SEC on January 3, 2012. The Liquidity Support Agreement, the Compensation and Funding Agreement, the Upfront Warrant, the Revolving Credit and Convertible Loan Agreement, the Private Placement Agreement, and amendments thereto are attached to, and more fully described in, our Form 10-K as filed with the SEC on February 29, 2012, our Information Statement on Schedule 14C filed with the SEC on March 22, 2012, and our Form 10-Q as filed with the SEC on November 2, 2012.

### ***Sale of Debentures***

On May 29, 2013, we issued \$300 million in aggregate principal amount of our 0.75% Senior Convertible Debentures due 2018 (the Debentures) in a private offering. \$200 million in aggregate principal amount of the Debentures were sold to Total by the initial purchasers of the Debentures. The Debentures are convertible into shares of our common stock at any time based on an initial conversion rate of 40.0871 shares of common stock per \$1,000 principal amount of Debentures (which is equivalent to an initial conversion price of approximately \$24.95 per share of our common stock), subject to adjustment under certain circumstances. The holders of the Debentures may require us to repurchase their Debentures under certain circumstances. The Debentures are subject to redemption at our option under certain circumstances.

### ***Other Agreements***

In October 2012, our subsidiary in Spain entered into an engineering and construction contract with a Total affiliate in Valdemoro, Spain. We are engaged to design, build and commission a solar installation of 100 kWp over a rooftop of premises belonging to the Total affiliate at the contract price of 189,000.

In the fourth quarter of 2012, we merged certain insurance programs with Total to allow for increased coverage at reduced cost. Total is partially self-insured through an affiliate. We pay through our insurance broker an estimated \$800,000 annual premiums for cargo, excess liability and property insurance, and we expect approximately \$400,000 of which to be passed on to Total's affiliate.

In January 2013, we entered into an agreement with a Total affiliate in order for such affiliate to support certain former employees in France in their post-termination entrepreneurial plans, including providing loans to the former employees. We will pay service fees estimated at 100,000 in 2013 to Total and 10% of employee loans' principal amount (estimated at 55,000).

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**AUDIT COMMITTEE REPORT**

The Audit Committee of our Board of Directors serves as the representative of the Board of Directors with respect to its oversight of:

our accounting and financial reporting processes and the audit of our financial statements;

the integrity of our financial statements;

our internal controls;

our compliance with legal and regulatory requirements and efficacy of and compliance with our corporate policies;

the independent registered public accounting firm's appointment, qualifications and independence; and

the performance of our internal audit function.

The Audit Committee also reviews the performance of our independent registered public accounting firm, Ernst & Young LLP, in the annual audit of financial statements and in assignments unrelated to the audit, and reviews the independent registered public accounting firm's fees.

The Audit Committee provides the Board such information and materials as it may deem necessary to make the Board aware of financial matters requiring the attention of the Board. The Audit Committee reviews our financial disclosures, and meets privately, outside the presence of our management, with our independent registered public accounting firm. In fulfilling its oversight responsibilities, the Audit Committee reviewed and discussed the audited financial statements in our Annual Report on Form 10-K for our fiscal year ended December 30, 2012 with management, including a discussion of the quality and substance of the accounting principles, the reasonableness of significant judgments made in connection with the audited financial statements, and the clarity of disclosures in the financial statements. The Audit Committee reports on these meetings to our Board of Directors.

Our management has primary responsibility for preparing our financial statements and for our financial reporting process. In addition, our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our independent registered public accounting firm, Ernst & Young LLP, is responsible for expressing an opinion on the conformity of our financial statements to generally accepted accounting principles, and on the effectiveness of our internal control over financial reporting.

The Audit Committee reports as follows:

- (1) The Audit Committee has reviewed and discussed the audited financial statements for fiscal year 2012 with our management.
- (2) The Audit Committee has discussed with Ernst & Young LLP, our independent registered public accounting firm, the matters required to be discussed by statement on Auditing Standards No. 61, as amended (AICPA, Professional Standards, Vol. 1, AU Section 380), as adopted by the Public Company Accounting Oversight Board in Rule 3200T.
- (3) The Audit Committee has received the written disclosures and the letter from Ernst & Young LLP required by the applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the Audit Committee regarding independence, and has discussed with Ernst & Young LLP its independence, including whether Ernst & Young LLP's provision of non-audit services to us is compatible with its independence.

The Audit Committee has adopted a policy that requires advance approval of all audit, audit-related, tax services, and other services performed by the independent registered public accounting firm. The policy provides for pre-approval by the Audit Committee (or its Chair pursuant to delegated authority) of specifically defined



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audit and non-audit services. Unless the specific service has been previously pre-approved with respect to that fiscal year, the Audit Committee (or its Chair pursuant to delegated authority) must approve the specific service before the independent registered public accounting firm is engaged to perform such services for us.

Based on the review and discussion referred to in items (1) through (3) above, the Audit Committee recommended to our Board of Directors, and the Board approved, the inclusion of our audited financial statements in our Annual Report on Form 10-K for the fiscal year ended December 30, 2012, as filed with the SEC.

The foregoing report was submitted by the Audit Committee of the Board and shall not be deemed to be soliciting material or to be filed with the SEC or subject to Regulation 14A promulgated by the SEC or Section 18 of the Exchange Act, and shall not be deemed incorporated by reference into any prior or subsequent filing by us under the Securities Act of 1933 or the Exchange Act.

AUDIT COMMITTEE OF THE BOARD OF DIRECTORS

Thomas R. McDaniel, Chair  
Pat Wood III

February 19, 2013

**Table of Contents****DIRECTOR COMPENSATION**

The following table sets forth a summary of the compensation we paid to our non-employee directors for fiscal 2012. Ms. Lesjak was not a director during fiscal 2012 and is not included in the table below.

**2012 Director Compensation Table**

<b>Name</b>	<b>Fees Earned or Paid in Cash (\$)(1)</b>	<b>Stock Awards (\$)(2)(3)</b>	<b>Total (\$)</b>
W. Steve Albrecht (4)	50,009	149,991	200,000
Betsy S. Atkins (5)	87,511	224,902	312,413
Arnaud Chaperon	0	0	0
Bernard Clement	0	0	0
Denis Giorno	0	0	0
Jean-Marc Otero del Val (4)	0	0	0
Thomas R. McDaniel	100,012	299,900	\$ 399,912
Jérôme Schmitt (4)	0	0	0
Humbert de Wendel	0	0	0
Pat Wood III	112,512	299,900	\$ 412,412

- (1) The amounts reported in this column represent the aggregate cash retainers and payments for fractional shares received by the non-employee directors for 2012, but do not include amounts reimbursed to the non-employee directors for expenses incurred in attending Board and committee meetings.
- (2) The amounts reported in this column represent the aggregate grant date fair value computed in accordance with Financial Accounting Standards Board (or FASB) ASC Topic 718 for restricted stock units granted to our non-employee directors in 2012, as further described below. Each non-employee director received the following grants of restricted stock units on the following dates with the following grant date fair values (please note that some amounts reported may not add up exactly due to rounding on an award-by-award basis):

<b>Non-Employee Director</b>	<b>Grant Date</b>	<b>Restricted Stock Units (#)</b>	<b>Grant Date Fair Value (\$)</b>
W. Steve Albrecht	02/13/2012	9,578	74,996
	05/11/2012	13,537	74,995
Betsy Atkins	02/13/2012	9,578	74,996
	05/11/2012	13,537	74,995
	08/13/2012	17,523	74,911
Thomas R. McDaniel	02/13/2012	9,578	74,996
	05/11/2012	13,537	74,995
	08/13/2012	17,523	74,911
	11/12/2012	16,304	74,998
Pat Wood III	02/13/2012	9,578	74,996
	05/11/2012	13,537	74,995

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08/13/2012	17,523	74,911
11/12/2012	16,304	74,998

- (3) As of December 30, 2012, the following non-employee directors held options for the following number of shares: Mr. Albrecht, 12,000; Ms. Atkins, 7,500; and Mr. Wood, 48,000.
- (4) Messrs. Albrecht and Otero del Val resigned from the Board effective June 21, 2012 pursuant to the terms of the Affiliation Agreement with Total Energies Nouvelles Activités USA, SAS. Mr. Otero del Val replaced Mr. Schmitt on the Board effective April 30, 2013.
- (5) Ms. Atkins resigned from the Board effective August 31, 2012.



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**2012 Director Compensation Program**

We paid each of our non-employee directors the following compensation in 2012:

an annual fee of \$400,000 (\$100,000 quarterly) for our non-employee directors other than the Chairman of the Board for service on our Board and on Board committees;

an annual fee of \$450,000 (\$112,500 quarterly) to our Chairman of the Board for service on our Board and on Board committees;  
and

an additional annual fee of \$25,000 (\$6,250 quarterly) to the lead independent director.

These annual fees are prorated on a quarterly basis for any director that joins the Board during the year. The \$25,000 additional fee payable to the lead independent director is paid in cash. All of the fees payable to the Chairman of the Board are paid in the form of restricted stock units. The other fees are paid on a quarterly basis, 25% in cash on or about the date of the Board meeting and 75% in the form of fully-vested restricted stock units on the 11th day in the second month of each quarter (or on the next trading day if such day is not a trading day). The restricted stock units are settled in shares of our common stock within seven days of the date of grant. Because Mr. Werner is our President and Chief Executive Officer, he is not separately compensated for his service as Chairman of the Board. Similarly, because each of our Total nominated directors do not qualify as independent directors under our director compensation policy, such individuals receive no director compensation.

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**PROPOSAL TWO**

**ADVISORY VOTE TO APPROVE NAMED EXECUTIVE OFFICER COMPENSATION**

As required under the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, and Section 14A of the Exchange Act, we are asking our stockholders to again vote to approve, on an advisory (non-binding) basis, the compensation of our named executive officers as disclosed in this proxy statement in accordance with the SEC's rules.

As described in detail under the headings *Compensation Discussion and Analysis* and *Executive Compensation*, we have adopted an executive compensation philosophy designed to deliver competitive total compensation to our executive officers upon the achievement of financial and strategic performance objectives. In order to implement that philosophy, the Compensation Committee has established a disciplined process for the adoption of executive compensation programs and individual executive officer pay actions that includes the analysis of competitive market data, a review of each executive officer's role, performance assessments and consultation with the Compensation Committee's independent compensation consultant. Please read the *Compensation Discussion and Analysis* beginning on page 43 and *Executive Compensation* beginning on page 56 for additional details about our executive compensation programs, including information about the fiscal year 2012 compensation of our named executive officers.

**2012 SunPower Performance.** We delivered strong financial and operational results for fiscal year 2012 despite the challenges the global economy and credit markets experienced during that period:

We grew revenues in 2012 to \$2.4 billion.

We sold our 579 megawatt Antelope Valley Solar Project to MidAmerican Energy Holding Company, which is the biggest utility scale solar project in the world, for between \$2.0 billion and \$2.5 billion.

We installed 131 megawatts for the 250-megawatt California Valley Solar Ranch project, and are on track to complete construction in 2013.

We surpassed our manufacturing cost reduction targets by achieving more than 25 percent blended panel cost reduction in 2012.

We ramped-up our residential lease program in the United States across nine states, with more than 14,000 customers and 114 megawatt booked at the end of 2012.

We signed a joint venture agreement with partners in China to deliver SunPower's C7 Tracker concentrator technology into the Chinese market, and extended our long-term relationship with Toshiba to serve the Japanese market.

We began production of our third-generation Maxeon solar cell and the industry's first 21.5% efficient solar panel.

**2012 Compensation Features.** Our compensation programs are intended to align our named executive officers' interests with those of our stockholders by rewarding performance that meets or exceeds the goals that the Compensation Committee establishes with the objective of increasing stockholder value. The Compensation Committee continually reviews the compensation programs for our named executive officers to ensure they achieve the desired goals of aligning our executive compensation structure with our stockholders' interests and current market practices. Among the program features incorporated by the Compensation Committee in fiscal year 2012 to implement the executive compensation philosophy stated above are the following:

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Revenue, adjusted profit before tax, and corporate milestone performance targets determined the actual payouts under our performance-based cash bonus programs (specifically, the 2012 Annual Bonus Program and the 2012 Quarterly Bonus Program) for our named executive officers.

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Long-term incentives in the form of time- and performance-based restricted stock units make up a large portion of each named executive officer's compensation and are linked to the long-term performance of our stock. Restricted stock units generally vest over three years, and performance-based restricted stock units are earned only after the achievement of corporate performance targets and also vest over a three-year period.

Earning performance-based restricted stock units depends on the achievement of revenue and adjusted profit before tax performance targets.

Individual performance was additionally measured each quarter based on each named executive officer's achievement of his personal Key Initiatives, which support our corporate, strategic and operational milestones. An individual's personal Key Initiative score would result in no award being payable under the 2012 Quarterly Bonus Program even if we achieved our corporate targets if the personal Key Initiative score was determined to be zero.

Our change of control severance agreements do not entitle our named executive officers to payment without termination of employment following a change of control.

Our financial and operational performance described above was the key factor in the compensation decisions and outcomes for fiscal year 2012, as further described in *Compensation Discussion and Analysis* and *Executive Compensation*. One of the core tenets of our executive compensation philosophy is our emphasis on performance pay. As highlighted in the Compensation Components chart in *Compensation Discussion and Analysis*, in fiscal 2012 a large portion of our named executive officers' target compensation (87% for our Chief Executive Officer and averaging 78% for our other named executive officers, excluding Mr. Arriola) was delivered in the form of annual and quarterly bonus programs, as well as long-term equity incentives, including retention equity awards.

The Compensation Committee believes that our executive compensation programs, executive officer pay levels and individual pay actions approved for our executive officers, including our named executive officers, are directly aligned with our executive compensation philosophy and fully support its goals. We are asking our stockholders to indicate their support for our named executive officer compensation as described in this proxy statement. This proposal, commonly known as a say-on-pay proposal, gives our stockholders the opportunity to express their views on our named executive officers' compensation. This vote is not intended to address any specific item of compensation, but rather the overall compensation of our named executive officers and the philosophy, policies and practices described in this proxy statement. Accordingly, the Board recommends that our stockholders vote FOR the following resolution at the Annual Meeting:

RESOLVED, that, on an advisory basis, the compensation of SunPower's named executive officers, as disclosed in the Compensation Discussion and Analysis, compensation tables and related narratives and descriptions in SunPower's proxy statement for the Annual Meeting, is hereby APPROVED.

### **Vote Required**

The non-binding advisory vote on named executive officer compensation requires the affirmative vote of the holders of a majority of our stock having voting power and present in person or represented by proxy and entitled to vote at the Annual Meeting. Broker non-votes and abstentions will not count as votes in favor of the advisory vote on executive compensation and abstentions, but not broker non-votes, will have the effect of votes against this proposal.

Although the say-on-pay vote is advisory, and therefore not binding on the Company, the Compensation Committee or our Board, our Board and our Compensation Committee value the opinions of our stockholders. To the extent there is any significant vote against our named executive officers' compensation as disclosed in this proxy statement, we expect to consider our stockholders' concerns and the Compensation Committee expects to evaluate whether any actions are necessary to address those concerns.

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**Next Advisory Vote on Named Executive Officers Compensation**

In a non-binding advisory vote at our 2011 Annual Meeting, our stockholders recommended that a non-binding advisory vote to approve the compensat