

SECURITIES AND EXCHANGE COMMISSION

FORM 10-K/A

Annual report pursuant to section 13 and 15(d) [amend]

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FILER

**DAYSTAR TECHNOLOGIES INC**

CIK: **1262200** | IRS No.: **841390053** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **10-K/A** | Act: **34** | File No.: **001-34052** | Film No.: **12796359**  
SIC: **3674** Semiconductors & related devices

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K/A  
(Amendment No. 1)**

(Mark One)

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

**For the fiscal year ended December 31, 2011**

**or**

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

**For the Transition Period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File No. 001-34052**

**DayStar Technologies, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
Incorporation or organization)

**84-1390053**

(I.R.S. Employer  
Identification No.)

**33556 Alvarado Niles Road**

**Union City, California**

(Address of principal executive offices)

**94587**

(Zip Code)

**(408) 582-7100**

(Registrant's telephone number, including area code)

**Securities registered under Section 12(b) of the Exchange Act:**

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$.01 par value per share	The NASDAQ Capital Market

**Securities registered under Section 12(g) of the Exchange Act: None**

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

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

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

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

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if smaller reporting company)

Smaller reporting company

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

As of June 30, 2011, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the registrant's common stock held by non-affiliates was approximately \$3,964,881, computed by reference to the last sale price of the common stock on that date as reported by The Nasdaq Capital Market and excludes an aggregate of 147,041 shares of the registrant's common stock held by officers, directors and stockholders that the registrant has concluded are affiliates of the registrant. For purposes of determining whether a stockholder was an affiliate of the registrant at June 30, 2011, the registrant assumed that a stockholder was an affiliate of the registrant at June 30, 2011 if such stockholder (i) beneficially owned 5% or more of the registrant's common stock, as determined based on public filings, and/or (ii) was an executive officer or director or was affiliated with an executive officer or director of the registrant at June 30, 2011. Exclusion of such shares should not be construed to indicate that any such person possesses the power, direct or indirect, to direct or cause the direction of the management or policies of the registrant or that such person is controlled by or under common control with the registrant.

As of March 28, 2012, there were 1,452,340 shares of the registrant's common stock outstanding.

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**Explanatory Note**

On March 30, 2012 DayStar Technologies, Inc. (the “Company”) filed with the Securities and Exchange Commission its Annual Report on Form 10-K for the year ended December 31, 2011 (the “10-K Report”). As the Company will not hold its annual meeting until later in the year, it is filing this Amendment No. 1 (this “Amendment”) to the 10-K Report (i) to include the information required in Part III of the 10-K Report which was previously incorporated by reference from the Company’ s 2012 annual meeting proxy statement; and (ii) to re-file Item 15 (Exhibits, Financial Statement Schedules) to include currently-dated certifications from its Chief Executive Officer and Chief Financial Officer as exhibits to this Amendment.

No other revisions or amendments have been made to Part IV of the 10-K Report. This Amendment does not reflect events occurring after March 30, 2012, the date of the original filing of our 10-K Report, or modify or update those disclosures that may have been affected by subsequent events, with the exception of the 1-for-7 reverse split of the Company’ s common stock effective April 5, 2012. All references to common shares and per-share data for prior periods have been retroactively restated to reflect the reverse stock split as if it had occurred at the beginning of the earliest period presented.

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## Table of Contents

### DAYSTAR TECHNOLOGIES, INC.

#### Annual Report on Form 10-K/A

#### (Amendment No. 1)

#### Year Ended December 31, 2011

#### Table of Contents

	<u>Page No.</u>
<b>PART III</b>	
Item 10. <a href="#">Directors, Executive Officers and Corporate Governance</a>	5
Item 11. <a href="#">Executive Compensation</a>	8
Item 12. <a href="#">Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</a>	11
Item 13. <a href="#">Certain Relationships and Related Transactions, and Director Independence</a>	13
Item 14. <a href="#">Principal Accounting Fees and Services</a>	13
<b>PART IV</b>	
Item 15. <a href="#">Exhibits, Financial Statement Schedules</a>	14
<a href="#">Signatures</a>	18

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This report contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. Any statements contained in this report that are not statements of historical fact may be forward-looking statements. When we use the words “anticipates,” “plans,” “expects,” “believes,” “should,” “could,” “may,” “will” and similar expressions, we are identifying forward-looking statements. Forward-looking statements involve risks and uncertainties, which may cause our actual results, performance or achievements to be materially different from those expressed or implied by forward-looking statements. These factors include, among others, risks relating to our ability to raise additional funds in the near term to continue our operations; risks related to the development of our copper indium gallium diselenide (“CIGS”) solar photovoltaic (“PV”) products and manufacturing processes to produce such products; risks related to delivery of our products to customers, including product reliability, conversion efficiency, customer acceptance and product cost; market acceptance of CIGS; intense competition in the solar energy field; our history of losses; the historical volatility of our stock prices; general market conditions; and other factors referred to in Item 1A–“Risk Factors.”

Except as may be required by applicable law, we do not undertake or intend to update or revise our forward-looking statements, and we assume no obligation to update any forward-looking statements contained in this Annual Report as a result of new information or future events or developments. Thus, you should not assume that our silence over time means that actual events are bearing out as expressed or implied in such forward-looking statements that reflect our current expectations about our future results, performance, prospects and opportunities. You should carefully review and consider the various disclosures we make in this report and our other reports filed with the Securities and Exchange Commission that attempt to advise interested parties of the risks, uncertainties and other factors that may affect our business.

## Table of Contents

### PART III

#### Item 10. Directors, Executive Officers and Corporate Governance

The following table sets forth certain information about each of the members of the Board of Directors and each executive officer.

<u>Name</u>	<u>Age</u>	<u>Positions</u>	<u>Director Since</u>	<u>Expiration of Current Term</u>
<b>Directors</b>				
Peter A. Lacey		Chairman and Interim Chief Executive Officer	2009	2012
	55			
Jonathan W. Fitzgerald.(1)(2)(3)	50	Director	2009	2012
Daniel Germain(1)(2)	48	Director	2012	2012
William S. Steckel	54	Director	2009	2012
Kang Sun(1)	56	Director	2009	2012
<b>Executive Officers</b>				
Robert E. Weiss	55	Chief Technology Officer		
Christopher T. Lail	36	Chief Financial Officer		

- (1) Member of the Audit Committee.
- (2) Member of the Compensation Committee.
- (3) Member of the Nominating and Governance Committee.

#### **Directors**

**Peter A. Lacey.** Mr. Lacey has served as our Chairman of the Board since October 2009 and was appointed President and Interim Chief Executive Officer in February 2011. Mr. Lacey has been the President, Chief Executive Officer and a Director of Cervus Equipment Corporation since May 2003. Cervus Equipment Corporation, which had \$560 million in revenue in 2011 is listed on the TSX-Toronto Stock Exchange (CVL) and operates 15 agricultural and turf John Deere stores in Alberta, Saskatchewan, and British Columbia, as well as 5 Bobcat and JCB construction equipment stores in Alberta and 10 material handling equipment branches in Alberta, Saskatchewan and Manitoba. Mr. Lacey is also the President, Chief Executive Officer and a trustee of Proventure Income Fund, a public real estate income trust (REIT) listed on the TSX Venture Exchange (PVT.UN) which is in the commercial rental property business and provides commercial real estate leases to Cervus and other companies since November 2005. Mr. Lacey has also been the Chairman of the Board and Director of Eveready Energy Services, a public company listed on the Toronto Stock Exchange that provides industrial and oilfield maintenance and production services to the energy, resource, and industrial sectors, since September 2004. Eveready was sold to Clean Harbors Inc. in 2009. Mr. Lacey has been a member of the Red Deer College Board of Governors and Chairman.

The Board of Directors believes that Mr. Lacey's experience, both as an entrepreneur and in financing and successfully leading companies, provides needed skills as we seek strategic partnerships and investments.

**Jonathan W. Fitzgerald.** Mr. Fitzgerald joined us as a director in 2009. Mr. Fitzgerald is an independent investment banker providing advisory services to early and growth-stage businesses in a variety of technology industries. Previously, Mr. Fitzgerald was a Managing Director and senior investment banker with the firm of Morgan Joseph & Co. Inc. In addition to leading the Firm's Cleantech investment banking practice, Mr. Fitzgerald served a variety of industrial clients across the western region. Mr. Fitzgerald also served as the Interim-CEO of Harvest Wind Limited, a development stage wind turbine manufacturer based in Oregon. Mr. Fitzgerald also served as an Adviser to iSense Corporation, Boston Poly Corporation and Trustwater LLC. Mr. Fitzgerald was Co-Head of Capital Markets origination for North America at Dresdner Kleinwort Wasserstein. In this capacity he oversaw the origination of loan, bond and equity products for the firm's key corporate relationships across multiple industry sectors. In addition to traditional capital markets products, Mr. Fitzgerald has significant experience in acquisition finance, liability management, structured finance and securitization.

Mr. Fitzgerald also held senior investment positions in New York and London at Credit Suisse First Boston and Lehman Brothers, leading international investment banks. Mr. Fitzgerald holds a B.A. with Distinction from Bowdoin College, an MSc.(Econ) from The London School of Economics and Political Science and an M.B.A. from the Wharton School of the University of Pennsylvania.

The Board of Directors believes that Mr. Fitzgerald' s wealth of experience in working with growth technology and cleantech companies and his current experience as an independent investment banker providing advisory services to early and growth-stage businesses in a variety of technology industries, provides the board and management team with valuable insights as we continue our financing efforts and seek strategic partnerships and investments.

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## Table of Contents

**Daniel Germain.** Mr. Germain joined us as a director in February 2012. He is President and founder of the Club des petits déjeuners du Québec, the Breakfast Clubs of Canada, the Montreal Millennium Summit and the Children's Hour. Mr. Germain started the Club des petits déjeuners du Québec (Quebec Breakfast Club) in 1994. This not-for-profit organization offers children in underprivileged areas a nutritious breakfast in an environment that nourishes their self-esteem. In 2005, Mr. Germain decided to take this idea nationally and started the Breakfast Clubs of Canada. His commitment goes beyond Canada's borders too. In 2006, he created the Montreal Millennium Summit, which has become an important international conference in the area of social activism. The Summit aims to increase public awareness of the Millennium Development goals, and establish a global network of exchange and cooperation. In 2012, Mr. Germain started the Children's Hour which aims to celebrate and recognize school and student successes, whatever they may be. The highlight of this initiative, which is intended as a truly cooperative movement, is a major annual rally. Mr. Germain has been recognized for a career and a life dedicated to improving lives of all Canadian children. In 2011, he was presented with the Lieutenant Governor's Medal for Exceptional Merit, in 2009, he became a Member of the Order of Canada and in 2007, he was appointed to the Order of Québec. Amongst other awards and honors that he has received either individually or on behalf of the Clubs are the YMCAs of Québec 2010 Peace Medal, the 2010 Gold medal of the Order of Merit from the Fédération des Commissions scolaires du Québec (Quebec School Board Federation), the Canadian Medical Association 2008 Award for Excellence in Health Promotion and the Jubilee Medal given by Queen Elizabeth in 2003.

The Board of Directors believes that Mr. Germain's entrepreneurial experience combined with his passion for social change and responsibility will be great assets as DayStar builds a socially responsible renewable energy company.

**William S. Steckel.** Mr. Steckel joined us in June 2008 and served as our President & Chief Executive Officer and Chief Financial Officer until February 2010. Mr. Steckel served as Chief Financial Officer of Hess Print Solutions, Inc. from February 2010 until December 2010, and is now an independent financial consultant. From April 2006 until June 2008, Mr. Steckel was Chief Financial Officer, Senior Vice President and Treasurer at Norwood Promotional Products, a leading supplier of imprinted promotional products. Before Norwood, Mr. Steckel was with Lambda Power (a division of Invensys plc), a global manufacturer of power supplies, power filtering and power protection equipment, where he was President from 2003 to 2005 and CFO from 2001 to 2002. Mr. Steckel earned his Bachelor of Science in industrial management at Iowa State University, and his M.B.A. from Western Illinois University. He is also a Certified Public Accountant.

The Board of Directors believes that Mr. Steckel's recent experiences as a member of our management team provides key continuity and insight as we seek strategic partnerships and investments. Additionally, Mr. Steckel's financial and administrative experience as well as his manufacturing operational experience in leading technology companies is useful in providing oversight as we assess strategic alternatives to commercialize our technology.

**Kang Sun.** Dr. Sun joined us as a director in 2009. Dr. Sun is currently President and CEO of Amprius Inc., an advanced lithium-ion battery materials and batteries developer. Dr. Sun previously served as chairman and CEO of RayTracker Inc., an advanced solar tracking system company that was recently acquired by First Solar; President and Chief Operating Officer of China-based JA Solar Holdings Co., a world leader in photovoltaic products; Managing Director of New Business Development & Chief Strategy Officer, New Business and New Products Group for Applied Materials. From 1990 to 2005, Dr. Sun held senior executive positions in several large business enterprises and technology start-ups, including serving as Vice President of New Venture Business at Honeywell International Inc., General Manager of the optical devices business at Allied Signal, Vice President of New Business and Technology at Océ, and Vice President of Business Development at Microfabrica. Dr. Sun received his Ph.D. degree in material science from Brown University, master's degree in physical chemistry from University of Georgia and bachelor's degree in macromolecular science from Nanjing University, China.

The Board of Directors believes that Dr. Sun's demonstrated success and leadership as President and Chief Operating Officer of JA Solar and his depth of experience in technology companies will be of great value to DayStar as we move forward to commercialize our technology and seek strategic partnerships and investments.

## **Audit Committee**

Our Audit Committee, established in accordance with Section 3(a)(58)(A) of the Securities Exchange Act of 1934, as amended, is responsible for reviewing the results and scope of audits and other services provided by our independent public accountants and reviewing our system of internal accounting and financial controls. The audit committee also reviews other matters with respect to our accounting, auditing, and financial reporting practices and procedures, as it deems necessary or desirable. The Audit Committee of our Board of Directors consists of three non-employee directors who meet the independence standards of NASDAQ and the securities laws. The members of the Audit Committee are Jonathan Fitzgerald, Daniel Germain and Kang Sun. Mr. Fitzgerald serves as the Chairman of the Audit Committee.

### **Executive Officers**

Biographical information for our Interim Chief Executive Officer, Peter A. Lacey, is contained in the section captioned “Directors” above.

**Robert E. Weiss.** Mr. Weiss has served as our Chief Technology Officer since May 2007. He initially joined us in January 2006 as Director of the Equipment Development Group and served as our Vice President of Advanced Technologies from March 2006 to May 2007. From September 2005 to January 2006, he served as a consultant to us. From 1992 to 2005, he was with Intevac, Inc., a supplier of thin film deposition manufacturing equipment, most recently serving as Chief Technology Officer, where he led hardware and process development teams in commercializing tools used in the production of plasma and polysilicon displays, hard disks, and low light cameras. Mr. Weiss has a B.A. in English and Psychology from Grinnell College, Iowa.

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## **Table of Contents**

**Christopher T. Lail.** Mr. Lail was appointed Chief Financial Officer in January 2011. Mr. Lail joined us as Controller in July 2005 and was promoted to Vice President and Corporate Controller in July 2008. He is directly responsible for the financial and accounting functions, including financial and SEC reporting, internal control and SOX compliance, as well as fund raising activities. Prior to joining DayStar, Mr. Lail held various senior and management positions in public accounting, most recently with UHY, LLP from 2002 to 2005, where he specialized in auditing of public and private companies and provided accounting and tax services to clients in various industries. Mr. Lail earned his Bachelor's degree in Accounting from Plattsburgh State University and is a Certified Public Accountant.

### **Code of Ethics**

We have adopted a code of ethics that is applicable to our officers and directors, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. The code of ethics can be found under the heading "Ethics Policy" on our website at [www.daystartech.com](http://www.daystartech.com).

## [Table of Contents](#)

### Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 requires officers and directors, and persons who own more than ten percent of a registered class of our equity securities, to file reports of ownership and changes in ownership with the Commission. Officers, directors and greater than ten percent beneficial owners are required by Commission regulations to furnish us with copies of all forms they file pursuant to Section 16(a). Based solely on our review of the copies of such forms received and written representations from reporting persons required to file reports under Section 16(a), to the Company's knowledge all of the Section 16(a) filing requirements applicable to such persons with respect to fiscal 2011 were complied with.

### Item 11. Executive Compensation

The following Summary Compensation Table sets forth certain information regarding the compensation of our named executive officers for services rendered in all capacities to DayStar during the year ended December 31, 2011.

Summary Compensation Table

Name and Principal Position	Year	Salary (\$)	Stock	Option	Non-Stock Incentive		Total (\$)
			Awards (\$)	Awards (\$)	Plan	All Other	
					Comp. (\$)	Comp. (\$)	
Magnus Ryde	2011	\$-	\$200,000(1)	\$-	\$ -	\$-	\$200,000
Chief Executive Officer	2010	\$165,644	\$49,424 (2)	\$1,540,335(3)	\$ -	\$8,757 (4)	\$1,764,160
Peter A. Lacey(7)	2011	\$-	\$-	\$-	\$ -	\$-	\$-
Interim Chief Executive Officer							
Robert E. Weiss	2011	\$-	\$155,000(5)	\$124,000 (6)	\$ -	\$-	\$279,000
Chief Technology Officer	2010	\$199,233	\$398,999(2)	\$-	\$ -	\$1,735 (4)	\$599,967
Christopher T. Lail(8)	2011	\$11,667	\$155,000(5)	\$124,000 (6)	\$ -	\$-	\$290,667
Chief Financial Officer							

- (1) Represents the total fair market value on the date of grant, of restricted stock units granted in full settlement of all outstanding salary and benefit obligations to Mr. Ryde upon his resignation in February 2011.
- (2) Represents the total fair market value on the date of grant, of restricted stock units granted during the year ended December 31, 2010 including restricted stock units issued pursuant to a compensation restructuring under which the officer elected to receive a portion of his total base compensation in equity in lieu of cash. Amounts listed do not represent the actual current fair value of the shares granted.
- (3) Represents fair market value of options granted during the year ended December 31, 2010, calculated using the Black-Scholes option pricing model and related assumptions as disclosed in Note 4, *Share Based Compensation*, of our financial statements.
- (4) All other compensation for 2010 consists of medical premiums paid by us.
- (5) Represents the total fair market value on the date of grant, of restricted stock units granted in January 2011. These restricted stock units vested 75% on April 1, 2011 and the remaining 25% will vest upon completion of a definitive agreement with a strategic partner.
- (6) Represents fair market value of options granted in January 2011, calculated using the Black-Scholes option pricing model and related assumptions as disclosed in Note 4, *Share Based Compensation*, of our financial statements. These options vested 75% on April 1, 2011 and the remaining 25% will vest upon completion of a definitive agreement with a strategic partner.
- (7) Mr. Lacey receives compensation as a director only (see Director Compensation Table on page 11) and does not receive a salary or other benefits in his role as Interim Chief Executive Officer.
- (8) Mr. Lail was appointed Chief Financial Officer in January 2011.



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## [Table of Contents](#)

### **Employment Agreements**

Each executive officer serves at the discretion of our board of directors. We have entered into employment contracts with certain of our executive officers with initial terms of three-years. The agreements automatically extend for subsequent one-year periods on the anniversary date unless either party gives the other 90 days written notice prior to the anniversary date of the intent not to renew the agreement. Under the employment agreement, the executive officer is entitled to participate in an annual bonus and management incentive program and to benefits offered to other similarly situated employees as established by the Board from time to time.

#### ***Robert E. Weiss***

On April 3, 2006, we entered into an employment agreement with Robert E. Weiss, as our Vice President, Equipment Division, effective on April 1, 2006. His base salary was \$175,000. The agreement has an initial term of three years and automatically extends for subsequent one-year periods on the anniversary date unless either party gives the other 90 days written notice prior to the anniversary date of the intent not to renew the agreement. Mr. Weiss was appointed Chief Technology Officer in May 2007. On July 22, 2008, the Compensation Committee approved a change in compensation for Mr. Weiss. Effective August 1, 2008, Mr. Weiss' s annual base salary increased to \$285,000.

The agreement with Mr. Weiss was amended in December 2008 to clarify the manner in which the agreement complies with recent changes to applicable tax laws, including Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"). In particular, the Restated Employment Agreement (i) exempts the arrangements from the Code, and (ii) provides a "back stop" to implement a 6-month delay in payment if the revised arrangements are, in the future, deemed to be "deferred compensation" for purposes of the Code.

Under the agreement, the Non-Renewal severance consists of (i) a pro-rata portion of the Executive' s Regular Severance pay; (ii) payment of premiums for continued medical and any other applicable health insurance coverage under COBRA; and (iii) the vesting of a pro-rata portion of any unvested equity compensation awards that would have vested within twelve months of the termination date.

#### ***Payments Upon Termination or Change in Control***

The named executive officer may terminate his employment agreement for "good reason". We may terminate the agreement at any time for "cause" or in the event of the named executive officer' s disability or death. If we terminate for "cause", the named executive officer' s obligations cease after a specific termination procedure process. If we terminate "without cause" or the named executive officer terminates for "good reason", the named executive officer is entitled to one year base salary, the amount of incentive compensation paid in the prior year under the applicable incentive program, and vesting of restricted stock, warrants, or options that would vest over the 12 months immediately following the cessation of employment. In the event that the agreement is terminated because of death, all obligations to the named executive officer immediately cease, except for benefits accrued to date. In the event of disability preventing the named executive officer from substantially performing his duties, we may terminate for "cause."

If the named executive officer' s contract is terminated after a "change in control", the named executive officer is entitled to a multiple of base salary, plus the target amount of incentive pay under the management incentive program. In addition, all unvested warrants, options or restricted stock then held by executive, if any, shall vest automatically on the termination of executive' s employment. Mr. Weiss' s multiple is 2.0. A "change in control", as defined, includes (a) a consolidation or merger in which the Company is not the continuing or surviving corporation, (b) a recapitalization in which any person becomes the 50% owner and 50% of the membership of the board of directors changes commensurate with the transaction, (c) any transaction in which substantially all the assets of the corporation are to be liquidated, and (d) any person becoming the beneficial owner of more than 50% of our voting power. The agreement contains an eighteen month non-solicitation provision that restricts the named executive officer from directly or indirectly soliciting our current employees or key suppliers to engage in a business relationship with any person or entity that engages in or plans to engage in the design, development, invention, implementation, application, manufacture, production, marketing, sale or license of any product or service in the direct competition with the Company' s products or services. For purposes of the agreement, our products or services are defined as CIGS-based PV products manufactured by a continuous process and/or on a flexible media.

Under the agreement the parties are compelled to engage in Arbitration to resolve any disputes.

## [Table of Contents](#)

The following table sets forth information concerning the outstanding equity awards granted to the named executive officers at December 31, 2011.

### Outstanding Equity Awards at Fiscal Year End Table

Name	Option Awards				Stock Awards	
	Number of Securities Underlying Unexercised Options (#)		Option Exercise Price (\$/Sh)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested(\$)(1)
	Exercisable	Unexercisable				
Peter A. Lacey	3,572	–	10.85	1-21-2021	–	–
	1,588	–	25.20	1-25-2020	–	–
Robert E. Weiss	10,715	3,572 (2)	10.85	1-21-2021	–	–
	3,333	–	223.02	4-7-2018	–	–
	3,175	–	311.22	10-4-2017	–	–
	52	–	552.51	6-19-2016	–	–
	–	–	–	–	3,572 (3)	5,501
Christopher T. Lail	10,715	3,572 (2)	10.85	1-21-2021	–	–
	2,381	–	176.40	9-22-2018	–	–
	397	–	223.02	4-7-2018	–	–
	318	–	311.22	10-4-2017	–	–
	397	–	330.12	3-30-2017	–	–
	80	–	552.51	6-19-2016	–	–
	102	–	935.55	6-21-2015	–	–
–	–	–	–	3,572 (3)	5,501	

(1) Based on closing price of DayStar's common stock on December 31, 2011 of \$1.54.

(2) Stock options vest upon completion of a definitive agreement with a strategic partner.

(3) Restricted stock units vest upon completion of a definitive agreement with a strategic partner.

### Director Compensation

In order to preserve our cash resources, the Board of Directors has agreed to accept stock in lieu of cash payments for board and committee meeting fees. In 2011 under this arrangement, each board member received 3,572 RSUs and an option to purchase 3,572 shares of our common stock.

## [Table of Contents](#)

The following Director Compensation Table summarizes the compensation of our non-employee directors for services rendered to DayStar during the year ended December 31, 2011:

**Director Compensation Table**

<u>Name</u>	<u>Fees Earned or</u>	<u>Stock</u>	<u>Stock Unit</u>	<u>Option</u>	<u>Total</u>
	<u>Paid in Cash</u>	<u>Awards</u>	<u>Awards(1)</u>	<u>Awards(2)</u>	
Peter A. Lacey	\$ –	\$ –	\$38,750	\$30,998	\$69,748
Jonathan W. Fitzgerald	–	–	38,750	30,998	69,748
Richard C. Green, Jr.(3)	–	–	38,750	30,998	69,748
William S. Steckel	–	–	71,900 (4)	30,998	102,898
Kang Sun	–	–	38,750	30,998	69,748

- (1) Represents total fair market value of stock unit awards on issuance date.
- (2) Represents fair market value of options granted during the year ended December 31, 2010, calculated using the Black-Scholes option pricing model and related assumptions as disclosed in Note 4, *Share Based Compensation*, of our financial statements.
- (3) Mr. Green resigned on November 10, 2011.
- (4) Includes \$33,150 representing the fair market value on the grant dates of restricted stock units issued to Mr. Steckel in lieu of cash fees for additional financial consulting services provided in 2011.

In addition to the fees listed above, we reimburse the directors for their travel expenses incurred in attending meetings of the Board or its committees, as well as for fees and expenses incurred in attending director education seminars and conferences. The directors do not receive any other compensation or personal benefits.

## **Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

### **Equity Compensation Plan Information**

On June 19, 2006, we adopted an Equity Incentive Plan (the “2006 Plan”) to enable employees, outside directors and consultants to acquire an equity interest in DayStar. In September 2008 and December 2010, our stockholders approved the Amended and Restated 2006 Equity Incentive Plan (the “2006 Amended and Restated Plan”). The 2006 Amended and Restated Plan provides for the grant of incentive and non-qualified stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance stock awards, performance cash awards and other stock awards to employees, directors, and consultants. The 2006 Amended and Restated Plan reserves 385,715 of our authorized shares of common stock for issuance for these purposes. Under the 2006 Amended and Restated Plan, the term of stock options shall not exceed ten years and stock options shall not be granted with an exercise price of less than 100% of the fair market value of our common stock, measured at the time of grant.

Grants of incentive and non-qualified stock options, and restricted stock prior to June 19, 2006 were made from our original Equity Incentive Plan adopted in 2003 (the “2003 Plan”). The 2003 Plan reserves 16,667 of our authorized shares of common stock for issuance for these purposes.

## Table of Contents

The following table gives information about our common stock that may be issued upon the exercise of options, warrants or rights under our existing equity compensation plan, consisting of the 2003 and 2006 Equity Incentive Plans. The information in this table is as of December 31, 2011.

<u>Plan Category</u>	<u>Number of securities to be issued upon exercise of outstanding options, warrants and rights</u>	<u>Weighted average exercise price of outstanding options, warrants, and rights</u>	<u>Number of securities remaining available</u>
Equity compensation plans approved by security holders	127,664 (1)	\$ 59.08	68,963
Equity compensation plans not approved by security holders	—	—	—
<b>Total</b>	<b>127,664</b>	<b>\$ 59.08</b>	<b>68,963</b>

(1) Does not include 23,016 outstanding restricted stock units granted to certain of our officers and directors under the 2006 Plan.

### **Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

The following table sets forth information, as of March 31, 2012, with respect to the beneficial ownership of our common stock by each person who is known to us to be the beneficial owner of more than five percent of our outstanding common stock by each nominee for director, by the named executive officers, and by all directors and executive officers as a group. The information contained in this beneficial ownership table for five percent stockholders is based on Form 13D, 13G, or other filings with the Commission available through [www.sec.gov/edgar](http://www.sec.gov/edgar) as of close of business April 27, 2012. Each person has sole voting power and sole investment power. Ownership percentages are based on 1,524,900 shares outstanding on March 31, 2012, plus the assumed conversion of the applicable notes and exercise of the applicable options and warrants vesting within 60 days thereof.

<u>Name of Beneficial Owner(1)</u>	<u>Number of Shares Beneficially Owned(2)</u>	<u>Percent</u>
<b>Directors and Executive Officers:</b>		
Robert E. Weiss(3)	69,758	4.4 %
Christopher T. Lail(4)	70,862	4.5 %
Peter A. Lacey(5)	2,579,080	62.9 %
Jonathan Fitzgerald(6)	12,302	*
Daniel Germain(7)	7,143	*
William S. Steckel(8)	39,313	2.5 %
Kang Sun(9)	17,461	1.1 %
All directors and executive officers as a group (7 persons)	2,795,919	65.2 %
<b>5% Stockholders:</b>		
Michael Moretti(10)	1,200,401	44.1 %
Sunlogics Power Fund Management, Inc.(11)	300,207	16.4 %
John Gorman(12)	95,239	5.9 %
Richard Schottenfeld(13)	88,434	5.7 %

\* Less than one percent.

- (1) Except as otherwise indicated, each officer and director can be reached at DayStar Technologies, Inc., 3567 Benton Street, Suite 367, Santa Clara, CA 95051.
- (2) The inclusion herein of any share of common stock deemed beneficially owned does not constitute an admission of beneficial ownership of those shares. Each person listed above has sole voting and investment power with respect to the shares listed. Any reference in the footnotes below to convertible notes and warrants, stock options, and restricted common stock subject to a right of repurchase by our company relates to notes convertible into shares of our common stock, stock options and warrants

exercisable or that will become exercisable within 60 days of March 31, 2012 and restricted common stock that will vest within 60 days of March 31, 2012.

## Table of Contents

- (3) Includes 31,056 shares of common stock issuable upon conversion of a secured convertible promissory note between Mr. Weiss and our company, vested warrants to purchase 7,937 shares of common stock, vested options to purchase 17,274 shares of common stock and 10,715 vested restricted stock units.
- (4) Includes vested options to purchase 14,388 shares of common stock and 28,572 restricted stock awards vesting April 1, 2012.
- (5) Includes 2,003,106 shares of common stock issuable upon conversion of secured convertible promissory notes between Mr. Lacey and our company, vested warrants to purchase 565,021 shares of common stock, and vested options to purchase 5,159 shares of common stock.
- (6) Includes vested options to purchase 5,159 shares of common stock and 7,143 restricted stock awards vesting April 1, 2012.
- (7) Represents 7,143 restricted stock awards vesting April 1, 2012.
- (8) Includes 18,634 shares of common stock issuable upon conversion of a secured convertible promissory note between Mr. Steckel and our company, vested warrants to purchase 1,588 shares of common stock, vested options to purchase 3,572 shares of common stock, and 7,143 restricted stock awards vesting April 1, 2012.
- (9) Includes vested options to purchase 5,159 shares of common stock, 5,159 vested restricted stock units, and 7,143 restricted stock awards vesting April 1, 2012.
- (10) Includes 780,746 shares of common stock issuable upon conversion of secured convertible promissory notes between Mr. Moretti and our company, and vested warrants to purchase 416,480 shares of common stock.
- (11) Represents shares of common stock issuable upon conversion of a convertible promissory note between Sunlogics Power Fund Management, Inc. and our company.
- (12) Represents vested warrants to purchase 95,239 shares of common stock.
- (13) Includes vested warrants to purchase 15,873 shares of common stock.

### **Item 13. Certain Relationships and Related Transactions, and Director Independence**

The Board of Directors has determined that a majority of its directors presently meet the independence standards under the applicable Nasdaq rules. These directors are Messrs. Fitzgerald, Germain, and Sun.

### **Item 14. Principal Accounting Fees and Services**

The following table shows the fees paid or accrued for the audit and other services provided by Hein & Associates LLP for 2011 and 2010.

	<u>FY 2011</u>	<u>FY 2010</u>
Audit Fees	\$71,533	\$94,805
Audit-Related Fees	4,525	–
Tax Fees	–	–
All Other Fees	–	–
Total	<u>\$76,058</u>	<u>\$94,805</u>

Audit services of Hein & Associates LLP for fiscal 2011 and 2010 consisted of the annual examination of our financial statements and quarterly reviews of the interim financial statements included in our reports on Form 10-Q. Audit-Related Fees consisted of procedures performed for the audit of our 401(k) Plan.

The Audit Committee has adopted policies and procedures to pre-approve all services to be performed by Hein & Associates. Specifically the committee's policy is to pre-approve the use of Hein & Associates for audit services as well as detailed, specific types of services within the categories of audit-related and non-audit services described above; and procedures required to meet certain regulatory requirements. The committee will not approve any service prohibited by regulation and does not anticipate approving any service in addition to the categories described above. In each case, the committee's policy is to pre-approve a specific annual budget by category which the company anticipates obtaining from Hein & Associates, and has required management to report the actual fees (versus budgeted fees) to the committee on a periodic basis throughout the year. In addition, any new, unbudgeted engagement for audit

services or within one of the other pre-approved categories described above must be pre-approved by the committee or its chair. All of the services described above were approved in advance by the Audit Committee.

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## Table of Contents

### PART IV

#### Item 15. Exhibits, Financial Statement Schedules

a. The following financial statements are included herein:

Report of Independent Registered Public Accounting Firm

Balance Sheets–December 31, 2011 and December 31, 2010

Statements of Operations–For the Years Ended December 31, 2011 and 2010 and For the Period From July 1, 2005 (Inception of the Development Stage) to December 31, 2011

Statements of Changes in Stockholders' Equity–For the Period From July 1, 2005 (Inception of the Development Stage) to December 31, 2011

Statements of Cash Flows–For the Years Ended December 31, 2011 and 2010 and For the Period From July 1, 2005 (Inception of the Development Stage) to December 31, 2011

Notes to Financial Statements

b. The following exhibits are filed as part of this report:

<u>Exhibit Number</u>	<u>Exhibit Title</u>
3.1(22)	Amended and Restated Certificate of Incorporation.
3.2(23)	Certificate of Amendment of Amended and Restated Certificate of Incorporation.
3.3(24)	Amended and Restated Bylaws.
3.4(25)	Certificate of Designation of Series A.
3.5(20)	Certificate of Designations of Preferences, Right and Limitations of Series B Preferred Stock dated February 2, 2011.
4.1(1)	Form of Common Stock Certificate.
10.1(1)*	Form of Employee Notice of Stock Option Grant related to 2003 Equity Incentive Plan.
10.2(1)*	Form of Employee Restricted Stock Issuance Agreement related to 2003 Equity Incentive Plan.
10.3(1)*	2003 Equity Incentive Plan.
10.4(1)	Form of Indemnification Agreement by and between the Company and its directors.
10.5(1)	Form of Indemnification Agreement by and between the Company and its officers.
10.6(1)	Form of Employee Notice of Stock Option Grant related to 2003 Equity Incentive Plan.
10.7(1)	Form of Employee Restricted Stock Issuance Agreement related to 2003 Equity Incentive Plan.
10.8(2)	Agreement by and between the Company and New York State Energy Research and Development Authority, dated December 2, 2004.
10.9(2)	Agreement by and between the Company and New York State Energy Research and Development Authority, dated December 2, 2004.
10.10(4)	Employment Agreement by and between the Company and Robert Weiss dated April 3, 2006.



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## Table of Contents

<u>Exhibit Number</u>	<u>Exhibit Title</u>
10.11(5)	Registration Rights Agreement by and among the Company, Millennium Partners, L.P., Phoenix Partners, LP, Phoenix Partners II, LP, Phaeton International (BVI), Ltd. and PreX Capital Partners, LLC, dated January 19, 2007. Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 25, 2007.
10.12(7)	First Amendment to the Registration Rights Agreement by and among the Company, Millenium Partners L.P., Phoenix Partners, LP, Phaeton International (BVI), Ltd. and PreX Capital Partners, LLC, dated May 29, 2007.
10.13(8)	Second Amendment to the Registration Rights Agreement by and among the Company, Millenium Partners L.P., Phoenix Partners, LP, Phaeton International (BVI), Ltd. and PreX Capital Partners, LLC, dated August 3, 2007.
10.14(9)	Amended and Restated 2006 Equity Incentive Plan.
10.15(10)*	Amended and Restated Employment Agreement by and between the Company and Robert E. Weiss, dated December 4, 2008.
10.16(11)*	Form of Employee Stock Option Agreement related to Amended and Restated 2006 Equity Incentive Plan.
10.17(11)*	Form of Employee Restricted Stock Issuance Agreement related to Amended and Restated 2006 Equity Incentive Plan.
10.18(11)*	Form of Employee Restricted Stock Unit Issuance Agreement related to Amended and Restated 2006 Equity Incentive Plan.
10.19(9)*	Amended and Restated 2006 Equity Incentive Plan.
10.20(10)*	Amended and Restated Employment Agreement by and between the Company and Robert E. Weiss, dated December 4, 2008.
10.21(12)	Form of Restricted Stock Unit Agreement for Employees and Consultants.
10.22(12)	Form of Restricted Stock Unit Agreement for Non-Employee Directors.
10.23(13)	Registration Rights Agreement by and between the Company and TD Waterhouse RRSP Account 240832S, in trust for Peter Alan Lacey, dated September 21, 2009. Incorporated by reference to our Current Report on Form 8-K filed with the SEC on September 24, 2009.
10.24(12)	Form of Restricted Stock Unit Agreement for Non-Employee Directors.
10.25(13)	Registration Rights Agreement by and between the Company and TD Waterhouse RRSP Account 240832S, in trust for Peter Alan Lacey, dated September 21, 2009.
10.26(11)	Form of Employee Stock Option Agreement related to Amended and Restated 2006 Equity Incentive Plan.
10.27(11)	Form of Employee Restricted Stock Issuance Agreement related to Amended and Restated 2006 Equity Incentive Plan.
10.28(11)	Form of Employee Restricted Stock Unit Issuance Agreement related to Amended and Restated 2006 Equity Incentive Plan.

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## Table of Contents

<u>Exhibit Number</u>	<u>Exhibit Title</u>
10.29(12)	Form of Restricted Stock Unit Agreement for Employees and Consultants.
10.30(15)	Registration Rights Agreement by and between the Company and Mike Moretti, dated January 6, 2010.
10.31(16)	Schedule of Material Details.
10.32(16)	Form of Purchase Agreement.
10.33(16)	Form of Secured Convertible Promissory Note.
10.34(16)	Form of Registration Rights Agreement.
10.35(16)	Form of Warrant.
10.36(16)	Form of Intercreditor Agreement.
10.37(16)	Form of Amendment of Notes and Warrants.
10.38(17)	Warrant to Purchase Shares of Common Stock dated October 12, 2010 issued to TD Waterhouse RRSP Account 230832S, in trust for Peter Alan Lacey as beneficiary.
10.39(17)	Warrant to Purchase Shares of Common Stock dated October 12, 2010 issued to Tejas Securities Group, Inc. 401K Plan and trust FBO John J. Gorman, John J. Gorman TTEE.
10.40(17)	Warrant to Purchase Shares of Common Stock dated October 12, 2010 issued to Michael Moretti.
10.41(18)	Amendment to Note between DayStar Technologies, Inc. and Dynamic Worldwide Solar Energy, LLC. Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 21, 2011.
10.42(18)	Amendment to Note between DayStar Technologies, Inc. and the Bridge Lenders.
10.43(19)	Purchase Agreement, dated as of January 24, 2011, between DayStar Technologies, Inc. and Michael Moretti.
10.44(19)	Secured Convertible Promissory Note, dated as of January 24, 2011, in favor of Michael Moretti.
10.45(19)	Warrant, dated as of January 24, 2011, issued to Michael Moretti.
10.46(19)	Registration Rights Agreement, dated as of January 24, 2011, between DayStar Technologies, Inc. and Michael Moretti.
10.47(20)	Securities Purchase Agreement dated February 2, 2011.
10.48(20)	Securities Purchase Agreement, dated as of February 2, 2011, by and between DayStar Technologies, Inc. and Socius CG II, Ltd.
10.49(21)	Separation Agreement dated as of February 26, 2011, by and between DayStar Technologies, Inc. and Magnus Ryde.
10.50(26)	Amendment to Securities Purchase Agreement dated as of March 30, 2011, by and between DayStar Technologies, Inc. and Socius CG II, Ltd.
23.1(26)	Consent of Hein & Associates LLP.
31.1	Certification of the Chief Executive Officer Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.

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## Table of Contents

<u>Exhibit Number</u>	<u>Exhibit Title</u>
31.2	Certification of the Chief Financial Officer Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.
32.1	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

\* Management contract or compensatory plan or arrangement

- (1) Incorporated by reference to our Registration Statement on Form SB-2 filed with the SEC on November 7, 2003, as amended.
- (2) Incorporated by reference to our Annual Report on Form 10-KSB filed with the SEC on March 18, 2005.
- (3) Incorporated by reference to our Quarterly Report on Form 10-QSB filed with the SEC on May 15, 2007.
- (4) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on April 7, 2006.
- (5) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 25, 2007.
- (6) Incorporated by reference to our Registration Statement on Form SB-2 filed with the SEC on February 20, 2007.
- (7) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on June 4, 2007.
- (8) Incorporated by reference to our Quarterly Report on Form 10-QSB filed with the SEC on August 3, 2007.
- (9) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on September 26, 2008.
- (10) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on December 10, 2008.
- (11) Incorporated by reference to our Annual Report on Form 10-K filed with the SEC on March 16, 2009.
- (12) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on July 2, 2009.
- (13) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on September 24, 2009.
- (14) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on February 18, 2010.
- (15) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 12, 2010.
- (16) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on July 28, 2010.
- (17) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on October 13, 2010.
- (18) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 21, 2011.
- (19) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 27, 2011.
- (20) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on February 3, 2011.
- (21) Incorporated by reference to our Current Report on Form 8-K filed with the SEC on February 28, 2011.
- (22) Incorporated by reference to our Quarterly Report on Form 10-QSB filed with the SEC on August 11, 2006.
- (23) Incorporated by reference to our Quarterly Report on Form 10-Q filed with the SEC on November 14, 2008.
- (24) Incorporated by reference to our Quarterly Report on Form 10-Q filed with the SEC on August 7, 2008.
- (25) Incorporated by reference to our Registration Statement on Form 8-A filed with the SEC on May 8, 2008.
- (26) Incorporated by reference to our Annual Report on Form 10-K filed with the SEC on March 30, 2012.

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## Table of Contents

### SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on April 30, 2012.

DAYSTAR TECHNOLOGIES, INC.

By:           /S/ PETER A. LACEY            
**Peter A. Lacey**  
**Interim Chief Executive Officer**  
**(Principal Executive Officer)**

By:           /S/ CHRISTOPHER T. LAIL            
**Christopher T. Lail**  
**Chief Financial Officer**  
**(Principal Financial and Accounting Officer)**

### POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Christopher T. Lail as his true and lawful attorney-in-fact and agent, with the full power of substitution for him, and in his name and in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming that said attorney-in-fact and agent or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

In accordance with the Exchange Act, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated, on April 30, 2012.

<u>Signature</u>	<u>Capacities</u>	<u>Date</u>
<u>          /S/ PETER A. LACEY          </u> <b>Peter A. Lacey</b>	Chairman and Interim Chief Executive Officer	April 30, 2012
<u>          /S/ JONATHAN W. FITZGERALD          </u> <b>Jonathan W. Fitzgerald</b>	Director	April 30, 2012
<u>          /S/ DANIEL GERMAIN          </u> <b>Daniel Germain</b>	Director	April 30, 2012
<u>          /S/ WILLIAM S. STECKEL          </u> <b>William S. Steckel</b>	Director	April 30, 2012
<u>          /S/ KANG SUN          </u> <b>Kang Sun</b>	Director	April 30, 2012



**CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Christopher T. Lail, Chief Financial Officer of DayStar Technologies, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of DayStar Technologies, Inc. for the year ended December 31, 2011;

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

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(e) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(f) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(g) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(h) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(c) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(d) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 30, 2012

By:                   /s/ CHRISTOPHER T. LAIL                  

**Christopher T. Lail**  
**Chief Financial Officer**  
**(Chief Accounting Officer)**



**CERTIFICATION PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002  
(18 U.S.C. Section 1350)**

In connection with the annual report of DayStar Technologies, Inc. (the "Company") on Form 10-K for the year ended December 31, 2011 as filed with the Securities and Exchange Commission on the date therein specified (the "Report"), I, Christopher T. Lail, Chief Financial Officer of the Company, certify, pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 30, 2012

By:           /s/ CHRISTOPHER T. LAIL          

**Christopher T. Lail  
Chief Financial Officer  
(Chief Accounting Officer)**