XSUNX INC
Form S-1
January 18, 2008

# UNITED STATES SECURITIES AND EXCHANGE COMMISSION
# Washington, DC 20549

# FORM S-1

**REGISTRATION STATEMENT**
**UNDER THE SECURITIES ACT OF 1933**

# XSUNX, INC.

(Exact Name of Issuer in Its Charter)

| | | |
|---|---|---|
| Colorado<br>(State of Incorporation) | 3081<br>(Primary Standard Classification Code) | 84-1384159<br>(I.R.S. Employer Identification Number) |


## 65 Enterprise
## Aliso Viejo, CA 92656
## (949) 330-8060

(Address and Telephone Number of Registrant s Principal
Executive Offices and Principal Place of Business)

**Tom Djokovich, President**
**65 Enterprise**
**Aliso Viejo, CA 92656**
**(949) 330-8060**

(Name, Address and Telephone Number of Agent for Service)

*Copies of communications to:*

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**Approximate date of commencement of proposed sale to the public:** As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, please check the following box and list the Securities Act Registration Statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If delivery of the Prospectus is expected to be made pursuant to Rule 434, please check the following box. o

# CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to Be Registered | Amount to Be Registered[(1)] | Proposed Maximum | Proposed Maximum | Amount of Registration Fee |
|---|---|---|---|---|

| | | Offering Price Per Share(1)(2) | Aggregate Offering Price(2) | |
|---|---|---|---|---|
| Common Stock, no par value | 48,650,000 | $ 0.545 | $26,514,250.00 | $ 1,042.01 |
| Total | 48,650,000 | $ 0.545 | $26,514,250.00 | $ 1,042.01 |

(1) The shares of our Common Stock being registered hereunder are being registered for sale by the Selling Stockholder named in the Prospectus. Should we have insufficient shares we will file a new registration statement to cover the resale of such additional shares should that become necessary.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, as amended, based on the closing price of $0.545 on the OTC Bulletin Board on January 11, 2008.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the commission, acting pursuant to said Section 8(a), may determine.**

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The information in this Prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the U.S. Securities and Exchange Commission is effective. This Prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS **SUBJECT TO COMPLETION DATED JANUARY , 2008**

# XSUNX, INC.

# 48,650,000 Shares Of Common Stock

This Prospectus relates to the sale of up to 48,650,000 shares of our common stock of which (i) 40,000,000 shares may be sold by Fusion Capital Fund II, LLC and (ii) 8,650,000 shares may be sold by Cumorah Capital, Inc. Fusion Capital and Cumorah Capital are sometimes referred to in this Prospectus as the selling shareholders. The prices at which the selling shareholders may sell the shares will be determined by the prevailing market price for the shares or in negotiated transactions. We will not receive proceeds from the sale of our shares by Fusion Capital or Cumorah Capital.

Our common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 and quoted on the Nasdaq Over-the-counter Bulletin Board under the symbol XSNX. On January 16, 2008, the last reported sale price for our common stock as reported on the Nasdaq Over-the-counter Bulletin Board was $0.48 per share.

**Investing in the common stock involves certain risks. See Risk Factors beginning on page 6 for a discussion of these risks.**

Fusion Capital is an underwriter within the meaning of the Securities Act of 1933, as amended.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

The date of this Prospectus is .

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# PROSPECTUS SUMMARY

## Business

We are a Colorado corporation. Our principal executive offices are located at 65 Enterprise, Aliso Viejo, California 92656. Our telephone number is (949) 330-8060. The address of our website is *www.xsunx.com*. Information on our website is not part of this prospectus.

XsunX is a thin-film photovoltaic ( TFPV ) company that intends to grow its business by manufacturing TFPV amorphous solar modules and selling them into what we believe is a high growth solar market opportunity. Our decision to pursue this strategy is based on our three years of research in the design and use of technologies for the manufacture of TFPV solar cells utilizing amorphous silicon. During this time we have developed the technical capabilities, qualified core staff, and market understanding that we believe will be necessary to establish product manufacturing infrastructure and take our product to market.

We have designed a TFPV solar module which we believe will deliver an average of 125 peak watts. To produce solar modules in commercial quantities we intend to processes glass substrates within a proprietary semiconductor manufacturing system which employs the design of a high-throughput, automated, continuous process. We believe that the design of our TFPV module and manufacturing system can deliver per watt costs significantly less than those of traditional crystalline silicon solar module manufacturers, and allow us to market TFPV modules that will be highly competitive with other thin film offerings.

Our plan for growth is to build and operate a TFPV solar module manufacturing facility in the state of Oregon. Employing a phased roll-out of manufacturing capacities, our baseline production system is scheduled for installation in mid calendar year 2008, the installation of our first 25MW line is scheduled near the end of calendar 2008, and the installation of our 4th 25MW line is scheduled for early 2010. In anticipation of commercial production, we have begun to market our TFPV solar module under the brand name of the XsunX ASI-120. Furthermore, we have successfully developed and implemented a pre-sales reservation program for system installers and large users of solar.

## The Offering

Fusion Capital, the selling stockholder under this Prospectus, is offering for sale up to 40,000,000 shares of our common stock hereto. On November 1, 2007, we entered into a common stock purchase agreement ( Purchase Agreement ) with Fusion Capital Fund II, LLC, an Illinois limited liability company. Under the Purchase Agreement, Fusion Capital is obligated, under certain conditions, to purchase shares from us in an aggregate amount of $21.0 million from time to time over a 25 month period. We have sold 3,166,668 shares of common stock to Fusion Capital (together with 3,333,332 common stock purchase warrants that are not part of this offering) under the Purchase Agreement for total proceeds of $1,000,000. Under the terms of the Purchase Agreement, Fusion Capital has received a commitment fee consisting of 3,500,000 shares of our common stock. As of January 16, 2008, there were

173,402,188 shares outstanding (144,633,631 shares held by non-affiliates) excluding the shares offered by Fusion Capital pursuant to this Prospectus which it has not yet purchased from us. If all of such 40,000,000 shares offered hereby were issued and outstanding as of the date hereof, the 40,000,000 shares would represent approximately 24% of the total common stock outstanding or 28% of the non-affiliates shares outstanding as of the date hereof.The number of shares ultimately offered for sale by Fusion Capital is dependent upon the number of shares purchased by Fusion Capital under the Purchase Agreement.

On January 16, 2008, Cumorah Capital purchased 8,650,000 shares of the Company s restricted common stock in a private transaction for total proceeds of $2,500,000.00. The Company agreed to register the 8,650,000 shares purchased by Cumorah Capital in the accompanying registration statement. Cumorah Capital is a Nevada corporation and an Accredited Investor, as defined in Rule 501(a) of Regulation D as promulgated by the SEC.

We do not have the right to commence any additional sales of our shares to Fusion Capital until the Securities & Exchange Commission has declared effective the registration statement of which this Prospectus is a part of. After the Securities & Exchange Commission has declared effective such registration statement, generally we have the right but not the obligation from time to time to sell our shares to Fusion Capital in amounts between $80,000 and $1.0 million depending on certain conditions. We have the right to control the



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timing and amount of any sales of our shares to Fusion Capital. The purchase price of the shares will be determined based upon the market price of our shares without any fixed discount at the time of each sale. Fusion Capital shall not have the right nor the obligation to purchase any shares of our common stock on any business day that the price of our common stock is below $0.20. The Purchase Agreement may be terminated by us at any time at our discretion without any cost to us.

| | |
|---|---|
| Common Stock Offered | 48,650,000 shares by the selling stockholders |
| Offering Price | Market price |
| Common Stock Currently Outstanding | 173,402,188 shares as of January 16, 2008 |
| Use of Proceeds | We will not receive any proceeds of the shares offered by the selling stockholders. See Use of Proceeds. |
| Risk Factors | The securities offered hereby involve a high degree of risk. See Risk Factors. |
| Over-the-Counter Bulletin Board Symbol | XSNX.OB |



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# FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. Such forward-looking statements include statements regarding, among other things, (a) our projected sales and profitability, (b) our growth strategies, (c) anticipated trends in our industry, (d) our future financing plans, and (e) our anticipated needs for working capital.

Forward-looking statements, which involve assumptions and describe our future plans, strategies, and expectations, are generally identifiable by use of the words may, will, should, expect, anticipate, estimate, believe, inte or the negative of these words or other variations on these words or comparable terminology. This information may involve known and unknown risks, uncertainties, and other factors that may cause our actual results, performance, or achievements to be materially different from the future results, performance, or achievements expressed or implied by any forward-looking statements. These statements may be found under Management s Discussion and Analysis of Financial Condition and Results of Operations and Business, as well as in this prospectus generally. Actual events or results may differ materially from those discussed in forward-looking statements as a result of various factors, including, without limitation, the risks outlined under Risk Factors and matters described in this prospectus generally. In light of these risks and uncertainties, there can be no assurance that the forward-looking statements contained in this filing will in fact occur. In addition to the information expressly required to be included in this filing, we will provide such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

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# SUMMARY FINANCIAL DATA

The following table below sets forth certain financial information derived from the Company s audited consolidated financial statements for the periods and at the dates indicated.

In 2003, the Company completed a Plan of Reorganization and Asset Purchase Agreement and changed the name of the Company from Sun River Mining, Inc. to XsunX, Inc. Due to the Company s change in primary focus in October of 2003 and the developing nature of the business opportunities, these historical results may not necessarily be indicative of results to be expected for any future period. As such, future results of the Company may differ significantly from previous periods. The historical trends reflect this change of primary focus and the associated research and development period of the development stage company. This change in primary focus is the largest factor in the comparability of this information over time.

The information presented below should be read in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements and the related notes.

| | Years Ended | | | | |
|---|---|---|---|---|---|
| | Sept. 30, 2007 | Sept. 30, 2006 | Sept. 30, 2005 | Sept. 30, 2004 | Sept. 30, 2003 |
| Statement of Operations Data: | | | | | |
| Net Sales | 6,880 | 8,000 | | | |
| Research and Development Expense | 435,534 | 949,472 | 501,423 | 129,493 | |
| Loan Fees | | 628,834 | 115,000 | | |
| Warrant Expenses | 325,303 | 951,250 | | 1,200,000 | |
| Income(Loss) from Continuing Operations | (1,289,497) | (3,441,940) | (1,400,839) | (1,509,068) | (145,868) |
| Income(Loss) from Continuing Operations per Common Share | $(0.01) | $(0.02) | $(0.02) | $(0.01) | $(0.02) |
| Cash Flow Data: | | | | | |
| | (843,416) | (1,942,278) | (1,049,650) | (236,630) | (27,372) |

| | | | | | |
|---|---|---|---|---|---|
| Net cash provided by (used in) operating activities | | | | | |
| Net cash used in investing activities | (1,822,942) | (2,099,736) | (191,995 ) | (12,267 ) | (3 ) |
| Net cash provided by financing activities | 135,000 | 8,171,250 | 1,380,170 | 1,483,895 | 29,721 |
| Balance Sheet Data: | | | | | |
| Cash | 1,773,748 | 4,305,105 | 175,869 | 37,344 | 2,346 |
| Property Plant and Equipment, Net | 499,868 | 397,626 | 165,831 | 2,270 | |
| Note Receivable | 1,500,000 | | | | |
| Marketable Prototype | 1,765,000 | 1,765,000 | | | |
| Total Assets | 5,742,260 | 6,859,464 | 441,684 | 72,114 | 2,349 |
| Accounts Payable | 259,652 | 582,161 | 78,377 | 89,030 | |
| Note Payable | | | 850,000 | 1,225 | |
| Total Liabilities | 312,688 | 588,699 | 974,233 | 96,163 | |
| Total Stockholders Equity (Deficit) | 5,429,572 | 6,270,765 | (532,549 ) | (24,049 ) | 2,349 |
| Long Term Obligations | | | | | |
| Cash Dividends Declared per Common Share | $ - | $ - | $ | $ | $ - |

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# SUPPLEMENTARY FINANCIAL INFORMATION

The following table presents the Company s condensed operating results for each of the ten (10) fiscal quarters through the period ended September 30, 2007. The information for each of these quarters is unaudited. In the opinion of management, all necessary adjustments, which consist only of normal and recurring accruals, have been included to fairly present the unaudited quarterly results. This data should be read together with the Company s consolidated financial statements and the notes thereto, and Management s Discussions and Analysis of Financial Condition and Results of Operations.

| Three (3) Months Ended (In Thousands) | Sept. 30, 2007 | June 30, 2007 | Mar. 31, 2007 | Dec. 31, 2006 | Sept. 30, 2006 | June 30, 2006 | Mar. 31, 2006 | Dec. 31, 2005 | Sept. 30, 2005 | June 30, 2005 |
|---|---|---|---|---|---|---|---|---|---|---|
| Net Sales | 0 | 0 | 7 | 0 | 0 | 0 | 0 | 8 | 0 | 0 |
| Research and Development Expense | 102 | 15 | 109 | 210 | 67 | 369 | 238 | 275 | 143 | 144 |
| Loan Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 213 | 115 | 0 |
| Income (loss) from Continuing Operations | 239 | (496 ) | (448 ) | (584 ) | (174 ) | (1,121) | (551 ) | (1,596) | (749 ) | (282 ) |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Income (loss) from Continuing Operations per common share | $0.002 | $(0.003) | $(0.01) | $(0.003) | $(0.001) | $(0.008) | $(0.01) | $(0.013) | $(0.006) | $(0.002) |

# WHERE YOU CAN FIND US

Our principal executive offices are located at 65 Enterprise, Aliso Viejo, California 92656. Our telephone number is (949) 330-8060 and our website is *www.xsunx.com*.

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# RISK FACTORS

An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below and the other information in this Prospectus before investing in our common stock. If any of the following risks occur, our business, operating results and financial condition could be seriously harmed. Please note that throughout this Prospectus, the words we , our or us refer to the Company and not to the Selling Stockholder.

## We have a limited operating history with significant losses and expect losses to continue for the foreseeable future.

We have yet to establish any history of profitable operations. We have incurred annual operating losses of $(1,289,497), $(3,411,940) and $(1,400,839), respectively, during the past three fiscal years of operation. As a result, at September 30, 2007 we had an accumulated deficit of $(10,460,850). We have incurred net losses from continuing operations of $(1,289,497) and $(3,411,940) for the fiscal years ending September 30, 2007 and September 30, 2008.Our revenues have not been sufficient to sustain our operations. We expect that our revenues will not be sufficient to sustain our operations for the foreseeable future. Our profitability will require the successful commercialization our TFPV amorphous solar modules. No assurances can be given when this will occur or that we will ever be profitable.

## We will require additional financing to sustain our operations and without it we may not be able to continue operations.

At September 30, 2007 we had working capital of $1,515,437. We had an operating cash flow deficit of $(843,416) in fiscal 2007, an operating cash flow deficit of $(1,942,278) in 2006 and for the year ended September 30, 2005, an operating cash flow deficit of $(1,049,650). We do not currently have sufficient financial resources to fund our plan of operations. Therefore, we need additional funds to continue these operations.

We only have the right to receive $80,000 every two business days under the Purchase Agreement with Fusion Capital unless our stock price equals or exceeds $0.30, in which case we can sell greater amounts to Fusion Capital as the price of our common stock increases. Fusion Capital shall not have the right nor the obligation to purchase any shares of our common stock on any business day that the market price of our common stock is less than $0.20. Since we are registering 33,166,668 shares for sale by Fusion Capital pursuant to this Prospectus which Fusion Capital has not yet purchased from us, the selling price of our common stock to Fusion Capital will have to average at least $.6030 per share for us to receive the maximum remaining proceeds of $20.0 million. Assuming a purchase price of $0.54 per share (the closing sale price of the common stock on January 14, 2000) and the purchase by Fusion Capital of 33,166,668 shares under the Purchase Agreement, proceeds to us would be $17,910,001.

The extent we rely on Fusion Capital as a source of funding will depend on a number of factors including, the prevailing market price of our common stock and the extent to which we are able to secure working capital from other sources. Specifically, Fusion Capital shall not have the right nor the obligation to purchase any shares of our common stock on any business days that the market price of our common stock is less than $0.20. If obtaining sufficient financing from Fusion Capital were to prove unavailable or prohibitively dilutive and if we are unable to commercialize and sell enough of our TFPL amorphous solar modules, we will need to secure another source of funding in order to satisfy our working capital needs. Even if we are able to access the full $21.0 million under the Purchase Agreement with Fusion Capital, we may still need additional capital to fully implement our business, operating and development plans. Should the financing we require to sustain our working capital needs be unavailable or prohibitively expensive when we require it, the consequences could be a material adverse effect on our business, operating results, financial condition and prospects.



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## We have not generated any significant revenues and may never achieve profitability.

We are a development stage company and, to date, have not generated any significant revenues. From inception through September 30, 2007, we had an accumulated deficit of $10,460,850. We cannot assure you that we can achieve or sustain profitability in the future. Our operations are subject to the risks and competition inherent in the establishment of a business enterprise. There can be no assurance that future operations will be profitable. Revenues and profits, if any, will depend upon various factors, including whether our product development can be completed, and if it will achieve market acceptance. We may not achieve our business objectives and the failure to achieve such goals would have an adverse impact on us.

## We expect that we will need to obtain significant additional financing to continue to operate our business, including significant capital expenditures to install our initial 25MW per annum production capacity, and financing may be unavailable or available only on disadvantageous terms.

We have in the past experienced substantial losses and negative cash flow from operations and have required financing, including equity and debt financing, in order to pursue the commercialization of products based on our technologies. We expect that we will continue to need significant financing to operate our business, including capital expenditures to install our planned production capacity.

There can be no assurance that such additional financing will be available or that the terms of such additional financing, if available, will be acceptable to us. If additional financing is not available or not available on terms acceptable to us, our ability to fund our operations, develop and install or expand our manufacturing operations and sales network, maintain our research and development efforts or otherwise respond to competitive pressures may be significantly impaired.

## We are working to establish our manufacturing capacity for our TFPV amorphous solar modules in order to meet anticipated demand, and our revenues and profits will depend upon our ability to successfully complete our initial 25MW of manufacturing capacity and then to sell our TFPV products at volumes to match our available production capacity.

We are working to establish initial manufacturing capacity of 25MW per annum and plan to expand manufacturing capacity to 100MW per annum by 2010. This plan includes adding a new facility in Oregon. We will be installing and testing the equipment for this manufacturing facility internally and through third parties. We may experience delays, additional or unexpected costs and other adverse events in connection with our projects, including those associated with the equipment we purchase from third parties. Additionally, there can be no assurance that market demand will absorb our manufacturing capacity or that our marketing capabilities will be successful. As a result, we may not be able to realize revenues and profits based upon the expected capacity, or we may experience delays or reductions in these revenues and profits, and our business could be materially adversely affected.

## Continued research and development efforts will be required to improve or maintain competitiveness of our products, and there can be no assurance that such efforts will be successful.

There can be no assurance that such research and development efforts will be successful or that we will be able to develop commercial applications for our products and technologies. Further, the areas in which we are developing technologies and products are characterized by rapid and significant technological change. Rapid technological development may result in our products becoming obsolete or noncompetitive. If future products based on our technologies cannot be developed for manufacture and sold commercially or our products become obsolete or noncompetitive, we may be unable to recover our investments or achieve profitability. In addition, a commercialization schedule may be delayed if we experience delays in meeting development goals, if products based on our technologies exhibit technical defects, or if we are unable to meet cost or performance goals. In this event, potential purchasers of products based on our technologies may choose alternative technologies and any delays could allow potential competitors to gain market advantages.



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## There is no assurance that the market will accept our products once commercial-scale manufacturing has been achieved.

There can be no assurance that products based on our technologies will be perceived as being superior to existing products or new products being developed by competing companies or that such products will otherwise be accepted by consumers. The market prices for products based on our technologies may exceed the prices of competitive products based on existing technologies or new products based on technologies currently under development by competitors. There can be no assurance that the prices of products based on our technologies will be perceived by consumers as cost-effective or that the prices of such products will be competitive with existing products or with other new products or technologies. If consumers do not accept products based on our technologies, we may be unable to recover our investments or achieve profitability.

## Other companies, many of which have greater resources than we have, may develop competing products or technologies which cause products based on our technologies to become noncompetitive.

We will be competing with firms, both domestic and foreign, that perform research and development, as well as firms that manufacture and sell solar products. In addition, we expect additional potential competitors to enter the markets for solar products in the future. Some of these current and potential competitors are among the largest industrial companies in the world with longer operating histories, greater name recognition, access to larger customer bases, well-established business organizations and product lines and significantly greater resources and research and development staff and facilities. There can be no assurance that one or more such companies will not succeed in developing technologies or products that will become available for commercial sale prior to our products, that will have performance superior to products based on our technologies or that would otherwise render our products noncompetitive. If we fail to compete successfully, our business would suffer and we may lose or be unable to gain market share.

## The loss of strategic relationships used in the development of our products and the systems and components to our planned 25MW manufacturing system could impede our ability to complete our product and/or our initial manufacturing system and result in a material adverse effect causing our business to suffer.

We have established a plan of operations under which a portion of our operations rely on strategic relationships with third parties, to provide systems design, assembly and support. A loss of any of our third party relationships for any reason could cause us to experience difficulties in implementing our business strategy. There can be no assurance that we could establish other relationships of adequate expertise in a timely manner or at all.

## We may suffer the loss of key personnel or may be unable to attract and retain qualified personnel to maintain and expand our business.

Our success is highly dependent on the continued services of a limited number of skilled managers, scientists and technicians. The loss of any of these individuals could have a material adverse effect on us. In addition, our success will depend upon, among other factors, the recruitment and retention of additional highly skilled and experienced management and technical personnel. There can be no assurance that we will be able to retain existing employees or to attract and retain additional personnel on acceptable terms given the competition for such personnel in industrial, academic and nonprofit research sectors.

## Raw material costs could impact our cost of goods and our ability to successfully develop our products and technologies.

Higher costs for certain raw materials and commodities, principally glass, resin-based polymers and industrial gases, as well as higher energy costs, could negatively impact our cost of operations. While we have developed strategies to mitigate or partially offset the impact of higher raw material, commodity and energy costs, there can be no assurances such measures will be successful. In addition, no assurances can be given that the magnitude and duration of these cost increases or any future cost increases will not have a larger adverse impact on our profitability and consolidated financial position than currently anticipated. As part of our planned research and development activities, we are attempting to reduce costs through improved automation and substitution strategies. There can be no assurances that we will succeed in these future cost-reduction efforts, which may be essential for the continued development of our competitive presence.



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## Indemnification of Officers and Directors.

The Colorado Business Corporation Act provides for the indemnification of its directors, officers, employees, and agents, under certain circumstances, against attorney s fees and other expenses incurred by them in any litigation to which they become a party arising from their association with or activities on behalf of the Company. The Company will also bear the expenses of such litigation for any of its directors, officers, employees, or agents, upon such person s promise to repay the Company therefore if it is ultimately determined that any such person shall not have been entitled to indemnification. This indemnification policy could result in substantial expenditures by the Company which it may be unable to recoup.

## Director s Liability Limited.

The Colorado Business Corporation Act excludes personal liability of its directors to the Company and its stockholders for monetary damages for breach of fiduciary duty except in certain specified circumstances. Accordingly, the Company will have a much more limited right of action against its directors than otherwise would be the case. This provision does not affect the liability of any director under federal or applicable state securities laws.

## Effective Internal Controls.

As a public company, we are required to document and test our internal control procedures in order to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act, which will require annual management assessments of the effectiveness of our internal control over financial reporting and a report by our independent registered public accounting firm that both addresses management s assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting. During the course of our testing, we may identify deficiencies which we may not be able to remediate in time to meet our deadline for compliance with Section 404. Testing and maintaining internal controls can divert our management s attention from other matters that are important to our business. We also expect the new regulations to increase our legal and financial compliance cost, make it more difficult to attract and retain qualified officers and members of our board of directors (particularly to serve on an audit committee) and make some activities more difficult, time consuming and costly. We may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting in accordance with Section 404. Our independent registered public accounting firm may not be able or willing to issue an unqualified report on the effectiveness of our internal control over financial reporting. If we conclude that our internal control over financial reporting is not effective, we cannot be certain as to the timing of completion of our evaluation, testing and remediation actions or their effect on our operations since there is presently no precedent available by which to measure compliance adequacy. If we are unable to conclude that we have effective internal control over financial reporting or our independent auditors are unable to provide us with an unqualified report as required by Section 404, then we may be unable to continue to have our common stock traded on the Over the Counter Bulletin Board and investors could lose confidence in our reported financial information, which could have a negative effect on the trading price of our stock.

# The following risks relate principally to our common stock and its market value:

## Our Common Stock is deemed a low-priced Penny stock, therefore an investment in our Common Stock should be considered high risk and subject to marketability restrictions.

Since our common stock is a penny stock, as defined in Rule 3a51-1 under the Exchange Act, it will be more difficult for investors to liquidate their investment. Until the trading price of the common stock rises above $5.00 per share, if ever, trading in our common stock is subject to the penny stock rules of the Exchange Act specified in rules 15g-1 through 15g-10. Those rules require broker-dealers, before effecting transactions in any penny stock, to:

Deliver to the customer, and obtain a written receipt for, a disclosure document;
Disclose certain price information about the stock;
Disclose the amount of compensation received by the broker-dealer or any associated person of the broker-dealer;



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Send monthly statements to customers with market and price information about the penny stock; and
In some circumstances, approve the purchaser s account under certain standards and deliver written statements to the customer with information specified in the rules.

Consequently, the penny stock rules may restrict the ability or willingness of broker-dealers to sell our common stock and may affect the ability of holders to sell their common stock in the secondary market and the price at which such holders can sell any such securities. These additional procedures could also limit our ability to raise additional capital in the future.

**No Foreseeable Dividends.** We have never paid cash dividends on our common stock and do not anticipate paying cash dividends in the foreseeable future. The payment of dividends on our common stock will depend on earnings, financial condition and other business and economic factors affecting it at such time as the board of directors may consider relevant. If we do not pay dividends, our common stock may be less valuable because a return on your investment will only occur if its stock price appreciates.

**Limited Public Market.** There is only a limited public market for our common stock, and no assurance can be given that a market will continue or that a shareholder ever will be able to liquidate his investment without considerable delay, if at all. If a market should continue, the price may be highly volatile. Factors such as those discussed in this Risk Factors section may have a significant impact upon the market price of the securities offered hereby. Due to the low price of the securities, many brokerage firms may not be willing to effect transactions in the securities. Even if a purchaser finds a broker willing to effect a transaction in these securities, the combination of brokerage commissions, state transfer taxes, if any, and any other selling costs may exceed the selling price. Further, many lending institutions will not permit the use of such securities as collateral for any loans.

**Stock Volatility.** The market price of our common stock is likely to be highly volatile and could fluctuate widely in price in response to various factors, many of which are beyond our control, including:

technological innovations or new products and services by us or our competitors;
additions or departures of key personnel;
sales of our common stock;
our ability to integrate operations, technology, products and services;
our ability to execute our business plan;
operating results below expectations;
loss of any strategic relationship;
industry developments;

economic and other external factors; and
period-to-period fluctuations in our financial results.

Because we have a limited operating history with limited revenues to date, you may consider any one of these factors to be material. Our stock price may fluctuate widely as a result of any of the above listed factors.

In addition, the securities markets have from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies. These market fluctuations may also materially and adversely affect the market price of our common stock.

## The sale of our Common Stock to Fusion Capital may cause dilution and the sale of the shares of Common Stock acquired by Fusion Capital could cause the price of our Common Stock to decline.

In connection with entering into the Agreement, we authorized the sale to Fusion Capital of up to 40,000,000 shares of our common stock. The number of shares ultimately offered for sale by Fusion Capital is dependent upon the number of shares purchased by Fusion Capital under the Purchase Agreement. The purchase price for the common stock to be sold to Fusion Capital pursuant to the Purchase Agreement will fluctuate based on the price of our common stock. All 40,000,000 shares being registered hereunder are





expected to be freely tradable. It is anticipated that shares registered under such Registration Statement will be sold over a period of up to twenty-five (25) months from the date of such Prospectus. Depending upon market liquidity at the time, a sale of shares under such offering at any given time could cause the trading price of our common stock to decline. Fusion Capital may ultimately purchase all, some or none of the 33,166,668 shares of common stock being registered herewith which have not already been purchased by Fusion Capital. After it has acquired such shares, it may sell all, some or none of such shares. Therefore, sales to Fusion Capital by us under the Purchase Agreement may result in substantial dilution to the interests of other holders of our common stock. The sale of a substantial number of shares of our common stock under this offering, or anticipation of such sales, could make it more difficult for us to sell equity or equity-related securities in the future at a time and at a price that we might otherwise wish to effect sales. However, we have the right to control the timing and amount of any sales of our shares to Fusion Capital and the Purchase Agreement may be terminated by us at any time at our discretion without any cost to us. The Purchase Agreement may be terminated by Fusion Capital in the event that the SEC has not declared the Registration Statement of which such Prospectus is a part of effective on or before March 1, 2008.

## The market price of our Common Stock is highly volatile.

The market price of our common stock has been and is expected to continue to be highly volatile. Factors, including announcements of technological innovations by us or other companies, regulatory matters, new or existing products or procedures, concerns about our financial position, operating results, litigation, government regulation, developments or disputes relating to agreements, patents or proprietary rights, may have a significant impact on the market price of our stock. In addition, potential dilutive effects of future sales of shares of common stock by stockholders and by the Company, including Fusion Capital pursuant to this Prospectus and subsequent sale of Common Stock by the holders of warrants and options could have an adverse effect on the market price of our shares.

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# USE OF PROCEEDS

This Prospectus relates to shares of our common stock that may be offered and sold from time to time by the selling shareholders. We will receive no proceeds from the sale of shares of common stock in this offering. However, we may receive up to $21 million in proceeds from the sale of our common stock to Fusion Capital under the Purchase Agreement and we received $2.5 million in proceeds from the prior sale of our common stock to Cumorah Capital. Any proceeds from Fusion Capital we receive under the Purchase Agreement will be used for working capital and general corporate purposes.

The proceeds received by the Company under the common stock purchase agreement are expected to be used to build an initial base production system delivering full size commercial quality solar modules, and initiate the manufacture of the first of four (4) planned 25 megawatt systems under the Company s planned 100 megawatt thin film solar module production facility. Proceeds may also be used to lease and prepare manufacturing facilities with the necessary support systems for the manufacturing line, inventory, staff, and general working capital.

| | |
|---|---|
| Proceeds Received by the Company | |
| Manufacturing Equipment and Sub Systems | $ 12,773,974 |
| Working Capital and General and Administrative | 6,998,279 |
| Lease Payments and Manufacturing Leasehold Improvements | 2,725,098 |
| New Manufacturing Devices, Techniques and R&D | 1,002,649 |
| Total | $ 23,500,000 |



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# SELLING STOCKHOLDERS

The following table presents information regarding the selling stockholders. Neither the selling stockholders nor any of their affiliates has held a position or office, or had any other material relationship, with us.

| Selling Stockholder | Shares Beneficially Owned Before Offering | Percentage of Outstanding Shares Beneficially Owned Before Offering(1) | Shares to Be Sold in the Offering | Percentage of Outstanding Shares Beneficially Owned After Offering |
|---|---|---|---|---|
| Fusion Capital Fund II, LLC(2)(3) | 6,833,332 | 3.94 % | 40,000,000 | 0 % |
| Cumorah Capital, Inc.(4) | 8,650,000 | 4.99 % | 8,650,000 | 0 % |

(1) Applicable percentage of ownership is based on 173,402,188 shares of our common stock outstanding as of January 16, 2008, together with securities exercisable or convertible into shares of Common Stock within sixty (60) days of January 16, 2008 for each selling stockholder. Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to securities. Shares of common stock are deemed to be beneficially owned by the person holding such securities for the purpose of

computing the percentage of ownership of such person, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person. Note that affiliates are subject to Rule 144 and insider trading regulations, percentage computation is for form purposes only.

(2) As of the date hereof, 6,833,332 shares of our common stock have been acquired by Fusion Capital under the Purchase Agreement, consisting of (i) 3,333,332 shares previously purchased by Fusion Capital and (ii) 3,500,000 shares we issued to Fusion Capital as a commitment fee. Fusion Capital may acquire up to an additional 33,166,668 shares of our common stock under the Purchase Agreement.

(3) Steven G. Martin and Joshua B. Scheinfeld, the principals of Fusion Capital, are deemed to be beneficial owners of all of the shares of common stock owned by Fusion Capital. Messrs. Martin and Scheinfeld have shared voting and disposition power over the shares being offered under this Prospectus.

(4) Mr. William E. Beifuss, President of Cumorah Capital, is deemed to be the beneficial owner of all of the shares of common stock owned by Cumorah Capital. Mr. William E. Beifuss has voting and disposition power over the shares being offered under this Prospectus.

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# THE FUSION TRANSACTION

## General

On November 1, 2007, we entered into a common stock purchase agreement ( Purchase Agreement ) with Fusion Capital Fund II, LLC, an Illinois limited liability company. Under the Purchase Agreement, Fusion Capital is obligated, under certain conditions, to purchase shares from us in an aggregate amount of $21.0 million from time to time over a 25 month period. We have sold 3,333,332 shares of common stock to Fusion Capital (together with 3,333,332 common stock purchase warrants that are not part of this offering) under the Purchase Agreement for total proceeds of $1,000,000. Under the terms of the Purchase Agreement, Fusion Capital has received a commitment fee consisting of 3,500,000 shares of our common stock. As of January 16, 2008, there were 173,402,188 shares outstanding (153,268,289 shares held by non-affiliates) excluding the 33,166,668 shares offered by Fusion Capital pursuant to this Prospectus which it has not yet purchased from us. If all of such 33,166,668 shares offered hereby were issued and outstanding as of the date hereof, the 33,166,668 shares would represent 19.13% of the total common stock outstanding or 21.64% of the non-affiliates shares outstanding as of the date hereof.The number of shares ultimately offered for sale by Fusion Capital is dependent upon the number of shares purchased by Fusion Capital under the Purchase Agreement.

We do not have the right to commence any additional sales of our shares to Fusion Capital until the Securities & Exchange Commission has declared effective the registration statement of which this prospectus is a part of. After the Securities & Exchange Commission has declared effective such registration statement, generally we have the right but not the obligation from time to time to sell our shares to Fusion Capital in amounts between $80,000 and $1.0 million depending on certain conditions. We have the right to control the timing and amount of any sales of our shares to Fusion Capital. The purchase price of the shares will be determined based upon the market price of our shares without any fixed discount at the time of each sale. Fusion Capital shall not have the right nor the obligation to purchase any shares of our common stock on any business day that the price of our common stock is below $0.20. The Purchase Agreement may be terminated by us at any time at our discretion without any cost to us.

## Purchase of Shares Under the Common Stock Purchase Agreement

Under the Purchase Agreement, on any business day selected by us, we may direct Fusion Capital to purchase up to $80,000 of our common stock. The purchase price per share is equal to the lesser of:

- the lowest sale price of our common stock on the purchase date; or
- the average of the three (3) lowest closing sale prices of our common stock during the twelve (12) consecutive business days prior to the date of a purchase by Fusion Capital.

The purchase price will be equitably adjusted for any reorganization, recapitalization, non-cash dividend, stock split, or other similar transaction occurring during the business days used to compute the purchase price. We may direct Fusion Capital to make multiple purchases from time to time in our sole discretion; no sooner then every two (2) business days.

## Our Right to Increase the Amount to Be Purchased

In addition to purchases of up to $80,000 from time to time, we may also from time to time elect on any single business day selected by us to require Fusion Capital to purchase our shares in an amount up to $200,000 provided that our share price is not below $0.30 during the three (3) business days prior to and on the purchase date. We may increase this amount to up to $400,000 if our share price is not below $0.50 during the three (3) business days prior to and on the purchase date. This amount may also be increased to up to $600,000 if our share price is not below $0.80 during the three (3) business days prior to and on the purchase date. This amount may also be increased to up to $1.0 million if our share price is not below $1.25 during the three (3) business days prior to and on the purchase date. We may direct Fusion Capital to make multiple large purchases from time to time in our sole discretion; however, at least two (2) business days must have passed since the most recent large purchase was completed. The price at which our common stock would be purchased in this type of larger purchases will be the lesser of (i) the lowest sale price of our common stock on the purchase date and (ii) the lowest purchase price (as described above) during the previous ten (10) business days prior to the purchase date.



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## Minimum Purchase Price

Under the Purchase Agreement, we have set a minimum purchase price ( floor price ) of $0.20. However, Fusion Capital shall not have the right nor the obligation to purchase any shares of our common stock in the event that the purchase price would be less the floor price. Specifically, Fusion Capital shall not have the right or the obligation to purchase shares of our common stock on any business day that the market price of our common stock is below $0.20.

## Events of Default

Generally, Fusion Capital may terminate the Purchase Agreement without any liability or payment to the Company upon the occurrence of any of the following events of default:

- the effectiveness of the registration statement of which this Prospectus is a part of lapses for any reason (including, without limitation, the issuance of a stop order) or is unavailable to Fusion Capital for sale of our common stock offered hereby and such lapse or unavailability continues for a period of ten (10) consecutive business days or for more than an aggregate of thirty (30) business days in any 365-day period;
- suspension by our principal market of our common stock from trading for a period of three (3) consecutive business days;

the de-listing of our common stock from our principal market provided our common stock is not immediately thereafter trading on the Nasdaq Global Market, the Nasdaq Capital Market, the New York Stock Exchange or the American Stock Exchange;
the transfer agent s failure for five (5) business days to issue to Fusion Capital shares of our common stock which Fusion Capital is entitled to under the Purchase Agreement;
any material breach of the representations or warranties or covenants contained in the Purchase Agreement or any related agreements which has or which could have a material adverse effect on us subject to a cure period of five (5) business days; or
any participation or threatened participation in insolvency or bankruptcy proceedings by or against us.

## Our Termination Rights

We have the unconditional right at any time for any reason to give notice to Fusion Capital terminating the Purchase Agreement without any cost to us.

## No Short-Selling or Hedging by Fusion Capital

Fusion Capital has agreed that neither it nor any of its affiliates shall engage in any direct or indirect short-selling or hedging of our common stock during any time prior to the termination of the Purchase Agreement.

## Effect of Performance of the Common Stock Purchase Agreement on Our Stockholders

All 40,000,000 shares registered on behalf of Fusion Capital in this offering are expected to be freely tradable. It is anticipated that shares registered in this offering will be sold over a period of up to 25 months from the date of this Prospectus. The sale by Fusion Capital of a significant amount of shares registered in this offering at any given time could cause the market price of our common stock to decline and to be highly volatile. Fusion Capital may ultimately purchase all, some or none of the 33,166,668 shares of common stock not yet issued but registered in this offering. After it has acquired such shares, it may sell all, some or none of such shares. Therefore, sales to Fusion Capital by us under the Purchase Agreement may result in substantial dilution to the interests of other holders of our common stock. However, we have the right to control the timing and amount of any sales of our shares to Fusion Capital and the Purchase Agreement may be terminated by us at any time at our discretion without any cost to us.

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In connection with entering into the Purchase Agreement, we authorized the sale to Fusion Capital of up to 40,000,000 shares of our common stock. The number of shares ultimately offered for sale by Fusion Capital under this prospectus is dependent upon the number of shares purchased by Fusion Capital under the Purchase Agreement. The following table sets forth the amount of proceeds we would receive from Fusion Capital from the sale of shares at varying purchase prices:

| Assumed Average Purchase Price | Number of Shares to Be Issued if Full Purchase[(2)] | Percentage of Outstanding Shares After Giving Effect to the Issuance to Fusion | Proceeds From the Sale of Shares to Fusion Capital Under the Common Stock |
|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| | | | Capital[1] | | Purchase Agreement[2] |
| $ | 0.20 | | 33,166,668 | 19.13 % | $ 6,633,334 |
| $ | 0.30 | | 33,166,668 | 19.13 % | $ 9,950,000 |
| $ | 0.40 | | 33,166,668 | 19.13 % | $ 13,266,667 |
| $ | 0.50 | | 33,166,668 | 19.13 % | $ 16,583,334 |
| $ | 0.54 | (3) | 33,166,668 | 19.13 % | $ 17,910,001 |
| $ | 0.75 | | 26,666,667 | 15.38 % | $ 20,000,000 |
| $ | 1.00 | | 20,000,000 | 11.53 % | $ 20,000,000 |
| $ | 2.00 | | 10,000,000 | 5.77 % | $ 20,000,000 |

(1) The denominator is based on 173,402,188 shares outstanding as of January 16, 2008, which includes the 6,833,330 shares previously issued to Fusion Capital and the number of shares set forth in the adjacent column. The numerator is based on the number of shares issuable under the common stock purchase agreement at the corresponding assumed purchase price set forth in the adjacent column.

(2) Reflects 33,166,668 shares of common stock being purchased at the assumed average purchase price. Does not include the 3,333,332 shares of common stock previously purchased by Fusion Capital under the Purchase Agreement for $1,000,000 and 3,500,000 shares of our common stock issued to Fusion Capital as a commitment fee under the Purchase Agreement.

(3) Closing sale price of our shares on January 14, 2008.

# THE CUMORAH CAPITAL TRANSACTION

On January 16, 2008, Cumorah Capital purchased 8,650,000 shares of the Company s restricted common stock in a private transaction for total proceeds of $2,500,000. The Company agreed to register the 8,650,000 shares purchased by Cumorah Capital in the accompanying registration statement. Cumorah Capital is a Nevada corporation and an Accredited Investor, as defined in Rule 501(a) of Regulation D as promulgated by the SEC.

# PLAN OF DISTRIBUTION

The common stock offered by this Prospectus is being offered by the selling shareholders. The common stock may be sold or distributed from time to time by the selling stockholder directly to one or more purchasers or through brokers, dealers, or underwriters who may act solely as agents at market prices prevailing at the time of sale, at prices related to the prevailing market prices, at negotiated prices, or at fixed prices, which may be changed. The sale of the common stock offered by this Prospectus may be effected in one or more of the following methods:

- ordinary brokers transactions;
- transactions involving cross or block trades;
- through brokers, dealers, or underwriters who may act solely as agents;
- at the market into an existing market for the common stock;
- in other ways not involving market makers or established business markets, including direct sales to purchasers or sales effected through agents;
- in privately negotiated transactions; or
- any combination of the foregoing.

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In order to comply with the securities laws of certain states, if applicable, the shares may be sold only through registered or licensed brokers or dealers. In addition, in certain states, the shares may not be sold unless they have been registered or qualified for sale in the state or an exemption from the registration or qualification requirement is available and complied with.

Brokers, dealers, underwriters, or agents participating in the distribution of the shares as agents may receive compensation in the form of commissions, discounts, or concessions from the selling shareholder and/or purchasers of the common stock for whom the broker-dealers may act as agent. The compensation paid to a particular broker-dealer may be less than or in excess of customary commissions.

Fusion Capital is an underwriter within the meaning of the Securities Act.

Neither we nor the selling shareholders can presently estimate the amount of compensation that any agent will receive. We know of no existing arrangements between the selling shareholders, any other shareholder, broker, dealer, underwriter, or agent relating to the sale or distribution of the shares offered by this Prospectus. At the time a particular offer of shares is made, a prospectus supplement, if required, will be distributed that will set forth the names of any agents, underwriters, or dealers and any compensation from the selling shareholders, and any other required information.

We will pay all of the expenses incident to the registration, offering, and sale of the shares to the public other than commissions or discounts of underwriters, broker-dealers, or agents. We have also agreed to indemnify Fusion Capital and related persons against specified liabilities, including liabilities under the Securities Act.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers, and controlling persons, we have been advised that in the opinion of the SEC this indemnification is against public policy as expressed in the Securities Act and is therefore, unenforceable.

The selling shareholders and their affiliates have agreed not to engage in any direct or indirect short selling or hedging of our common stock during the term of the Purchase Agreement.

We have advised the selling shareholders that while it is engaged in a distribution of the shares included in this Prospectus it is required to comply with Regulation M promulgated under the Securities Exchange Act of 1934, as amended. With certain exceptions, Regulation M precludes the selling shareholders, any affiliated purchasers, and any broker-dealer or other person who participates in the distribution from bidding for or purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of the distribution until the entire distribution is complete. Regulation M also prohibits any bids or purchases made in order to stabilize the price of a security in connection with the distribution of that security. All of the foregoing may affect the marketability of the shares offered hereby this Prospectus.

This offering will terminate on the date that all shares offered by this Prospectus have been sold by the selling shareholders.



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# LEGAL PROCEEDINGS

In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we are currently not aware of nor have any knowledge of any legal proceedings or claims that we believe will have, individually or in the aggregate, a material adverse affect on our business, financial condition or operating results.

Effective March 23, 2007 XsunX entered into a binding letter of intent ( LOI ) with a manufacturer (the Seller ) of photovoltaic products for the purchase of certain net assets of the manufacturer for the amount of five million dollars ($5,000,000) USD in a cash transaction. On or about April 27, 2007 the Company was notified by the Seller of a change in direction and decision not to complete the sale of assets under the LOI agreement. XsunX filed a complaint ( Lawsuit ) against the Seller and related entities in the United States District Court for the District of Massachusetts on May 10th, 2007, alleging breach of contract and other claims. On August 23, 2007 the Seller and XsunX entered into a settlement agreement ( Settlement ). The Settlement became effective upon the transfer by the Seller to XsunX of one million one hundred thousand dollars USD ($1,100,000) on August 27, 2007. Upon the effectiveness of the Settlement counsel for each of the parties filed with the United States District Court for the District of Massachusetts a Stipulation of Dismissal with Prejudice thereby dismissing the Lawsuit with prejudice. Each of the parties has unconditionally and irrevocably released, waived, and forever discharged each other from claims related to the LOI and the Lawsuit.

In December 2006, the Company entered into a settlement agreement with a service provider in which the service provider returned to the Company 150,000 of the 300,000 shares of common stock issued to the service provider in the period ended March 31, 2005. The shares were originally issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The returned shares were received and cancelled effective January 2007. As a result of the return and cancellation of these shares, the Company recorded a credit to expenses in the amount of $12,000 and a debit to paid in capital of $12,000 for the period ending March 31, 2007.The $12,000 represents one half of the monetary value expensed by the Company in the period in which the shares were issued.

On December 7, 2007, the Company filed an action for breach of contract and declaratory relief in the Superior Court of Orange County, California, against Wharton Capital Partners, Ltd, Wharton Capital Markets LLC, and Capitoline Financial Group LLC. The action is captioned *XsunX, Inc. v. Wharton Capital Partners, Ltd, et al.*, and is pending in the above Court as case no. 07CC12772 ( XsunX Action ). The XsunX Action was brought to seek a court determination that the Company does not owe any fees to the above defendants by reason of the Fusion Capital transaction. The XsunX Action also seeks return of confidential materials from the above defendants. On January 3, 2008, Wharton Capital Partners, Ltd, and Wharton Capital Markets LLC, filed an action in the U.S. District Court for the Southern District of New York against the Company stemming from the same matter. That action is captioned *Wharton Capital Partners Ltd, and Wharton Capital Markets LLC v. XsunX, Inc.*, and is pending in the above Court as case no. 080CV0056 ( Wharton Action ). The Wharton Action seeks fees in an amount equal to 7% of the gross proceeds received by the Company under the Fusion financing agreement. The Company asserts that no fees are owed to Wharton Capital Partners, Ltd, Wharton Capital Markets LLC, or Capitoline Financial Group LLC. The Company intends to vigorously prosecute the XsunX Action and to vigorously defend the Wharton Action.



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# DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS

The following table lists the executive offices and directors of the Company as of January 17, 2008:

| Name | Age | Position Held | Tenure |
|---|---|---|---|
| Tom Djokovich | 50 | President, CEO, Director | Since October 2003 |
| Joseph Grimes | 50 | COO | Since April 2006 |
| Jeff Huitt | 46 | CFO | Since January 2007 |

| | | | |
|---|---|---|---|
| Thomas Anderson | 42 | Director | Since August 2001 |
| Oz Fundingsland | 64 | Director | Since November 2007 |
| Dr. Michael A. Russak | 60 | Director | Since November 2007 |

The directors named above will serve until the next annual meeting of the Company s stockholders. Thereafter, directors will be elected for one-year terms at the annual stockholders meeting. Officers will hold their positions at the pleasure of the board of directors. There is no arrangement or understanding between the directors and officers of the Company and any other person pursuant to which any director or officer was or is to be selected as a director or officer.

The directors of the Company will devote such time to the Company s affairs on an as needed basis, but typically less than 20 hours per month. As a result, the actual amount of time which they will devote to the Company s affairs is unknown and is likely to vary substantially from month to month.

# Biographical Information

## Tom Djokovich, President and Chief Executive Officer since October 2003, and Director;

Mr. Djokovich was the founder and served from 1995 to 2002 as the Chief Executive Officer of Accesspoint Corporation, a vertically integrated provider of electronic transaction processing and e-business solutions for merchants. Under Mr. Djokovich s guidance, Accesspoint became a member of the Visa/MasterCard association, the national check processing association NACHA, and developed one of the payment industry s most diverse set of network based transaction processing, business management and CRM systems for both Internet and conventional points of sale. Prior to Accesspoint, Mr. Djokovich founded TMD Construction and Development in 1979. TMD provided management for multimillion-dollar projects incorporating at times hundreds of employees, subcontractors and international material acquisitions for commercial, industrial and custom residential construction services as a licensed building firm in California. In 1995 Mr. Djokovich developed an early Internet based business-to-business ordering system for the construction industry.

## Joseph Grimes, Chief Operating Officer since April 2006;

Mr. Grimes brings to XsunX more than eight years direct experience in thin-film technology and manufacturing. He was most recently Vice President, Defense Solutions, for Envisage Technology Company, where he directed and managed the defense group business development process, acquisition strategies and vision for next generation applications from October 2005 to March 2006. Previously he was Co-Founder, President and CEO of ISERA Group, where he established the company infrastructure and guided five development teams, finally selling the company to Envisage from 1993 to 2005. His direct experience in thin-film technology came with Applied Magnetics Corporation from 1985 to 1993 as manager for thin-film prototype assembly. Mr. Grimes holds a Bachelor s degree in business economics and environmental studies, and a Master s in computer modeling and operation research applications, both from the University of California at Santa Barbara.

## Jeff Huitt, Chief Financial Officer since January 2007;

Jeff Huitt serves as Chief Financial Officer at XsunX. Located in the Golden, Colorado research facility, his responsibilities include operations management and coordination of resources. He has over 20 years experience in leadership positions of both larger organizations and start ups, most recently as President of Parking Stripes Advertising, a private start-up media company from October 2006 to August 2007. Prior to that, he was COO/CFO of a startup defense contractor guiding the company through high growth and a recapitalization from January 2004 to October 2006. His additional experience includes CFO of iSherpa Capital, from

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October 2001 to January 2004 and Controller of Qwest Wireless from 1996 to 2000. Mr. Huitt is a CPA and holds two degrees from the University of Denver: a Bachelor of Science in Accounting and a Master s in Business Administration.

## Thomas Anderson, became a director of the Company in August 2001;

Mr. Anderson presently works as the Managing Director of the Environmental Science and Engineering Directorate of Qinetiq North America in Los Alamos, New Mexico. He has been with Qinetiq North America, formerly Apogen Technologies, since January, 2005. Mr. Anderson has worked for the past 18 years in the environmental consulting field, providing consulting services in the areas of environmental compliance, characterization and remediation services to Department of Energy, Department of Defense, and industrial clients. He formerly worked as a Senior Environmental Scientist at Concurrent Technologies Corp. from November 2000 to December 2004. He earned his B.S. in Geology from Denison University and his M.S. in Environmental Science and Engineering from Colorado School of Mines.

## Oz Fundingsland, became a director of the Company in November 2007;

Mr. Fundingsland brings over forty years of sales, marketing, executive business management, finance, and corporate governance experience to XsunX. His professional and business experience principally originated with his tenure, commencing in 1964, at Applied Magnetics Corp., a disk drive and data storage company. Prior to his retirement from Applied Magnetics in 1994, Mr. Fundingsland served as an Executive Officer and Vice President of Sales and Marketing for 11 years directing sales growth from $50 million to over $550 million. Commencing in 1993 through 2003 Mr. Fundingsland served as a member of the board of directors for the International Disk Drive Equipment Manufacturers Association IDEMA where he retired emeritus, and continues to serve as an advisor to the board. For the last 13 years, Mr. Fundingsland has provided consulting services assisting with sales, marketing, and management to a host of companies within the disk drive, optical, software, and LED industries

## Dr. Michael A. Russak, became a director of the Company November 2007;

Dr. Russak is also a member of the Company s Scientific Advisory Board. Dr. Michael A. Russak has been working as a consultant in the hard disk drive and photovoltaic industries since Jan 2007. He is also currently the Executive Director of IDEMA-U.S. (the hard disk drive industry trade association) and a member of the Board of Directors and Scientific Advisory Board of XsunX, Inc. From 2001 to 2006 he was President and Chief Technical Officer of Komag, Inc., a manufacturer of hard magnetic recording disks for hard disk drive applications. From 1993 to 2001 he was Chief Technical Officer of HMT Technology, Inc. also a manufacturer of magnetic recording disks. From 1985 to 1993 he was a research staff member and program manager in the Research Division of the IBM Corporation. Dr. Russak has over thirty five years of industrial experience progressing from a research scientist to senior executive officer of two public companies. He has expertise in thin film materials and devices for magnetic recording, photovoltaic, solar thermal applications, semiconductor devices as well as glass, glass-ceramic and ceramic materials. He also has over twelve years experience at the executive management level of public companies with significant off shore development and manufacturing functions. He received his B.S. in Ceramic Engineering in 1968 and Ph.D. in Materials Science in 1971, both from Rutgers University in New Brunswick, NJ. During his career, he has been a contributing scientist and program manager at the Grumman Aerospace Corporation, a Research Staff Member and technical manager in the areas of thin film materials and processes at the Research Division of the IBM Corporation at the T.J. Watson Research Laboratories. In 1993, he joined HMT Technology, a manufacturer of thin film disks for magnetic storage, as Vice President of Research and Development. His responsibilities included new product design and introduction. Dr. Russak became Chief Technical Officer of HMT and held that position until 2000 when HMT merged with Komag Inc. Dr. Russak was appointed President and Chief Technical Officer of the combined company. He continued to set technical, operational and business direction for Komag until his retirement at the end of 2006. He has published over 90 technical papers, and holds 23 U.S. patents.

## Board Committees

As of September 30, 2007, the Company s board of directors had one outside director and did not have any board committees. Additional outside directors were appointed in November of 2007. The newly expanded board of directors intends to appoint committees as necessary.



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## Compliance with Section 16(A) of the Exchange Act

Section 16(a) of the Exchange Act requires the Company s officers and directors, and certain persons who own more than 10% of a registered class of the Company s equity securities (collectively, Reporting Persons ), to file reports of ownership and changes in ownership ( Section 16 Reports ) with the Securities and Exchange Commission (the SEC ). Reporting Persons are required by the SEC to furnish the Company with copies of all Section 16 Reports they file.

Based solely on its review of the copies of such Section 16 Reports received by it, or written representations received from certain Reporting Persons, the following persons were required to file forms pursuant to Section 16(a):

| Name | Form | Filed |
|---|---|---|
| Tom Djokovich | Form 4 | October 24, 2003 |
| Joseph Grimes | Form 3 | December 21, 2007 |
| Jeff Huitt | Form 3 | January 9, 2008 |
| Thomas Anderson | Form 4 | January 7, 2008 |
| Michael Russak | Form 3 | Did not file |
| Oz Fundingsland | Form 3 | Did not file |

# SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of the date of this Report, the number of shares of common stock owned of record and beneficially by executive officers, directors and persons who hold 5.0% or more of the outstanding common stock of the Company as of January 16, 2008. Also included are the shares held by all executive officers and directors as a group. Unless otherwise indicated, the address of each beneficial owner listed below is c/o XsunX, Inc., 65 Enterprise, Aliso Viejo, California 92656.

| Shareholders/Beneficial Owners | Number of Shares | Ownership Percentage[1] |
|---|---|---|
| Tom Djokovich[2]<br>President & Director | 17,903,000 | 10.32 % |
| | 1,173,338 | * |

| | | |
|---|---|---|
| Thomas Anderson(3)<br>Director | | |
| Oz Fundingsland(3)<br>Director | 87,671 | * |
| Mike Russak(3)<br>Director | 101,370 | * |
| Joseph Grimes(3)<br>Chief Operating Officer | 664,000 | * |
| Jeff Huitt(3)<br>Chief Financial Officer | 200,000 | * |

All directors and executive officers as a group of (6 persons) account for ownership of 20,133,899 shares representing 11.62% of the issued and outstanding common stock. Each principal shareholder, unless noted otherwise, has sole investment power and sole voting power over the shares.

* Represents less than 1%.

(1) Applicable percentage ownership is based on 173,402,188 shares of common stock issued and outstanding as of January 16, 2008. Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission and generally includes voting or investment power with respect to securities. Shares of common stock that are currently exercisable or exercisable within 60 days of January 16, 2008 are deemed to be beneficially owned by the person holding such securities for the purpose of computing the percentage of ownership of such person, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person.

(2) Includes 16,978,000 shares owned by the Djokovich Limited Partnership. Mr. Djokovich shares voting and dispositive power with respect to these shares with Mrs. Tamara Djokovich.

(3) Includes warrants/options that may vest and be exercised within 60 days of the date of January 16, 2008.

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# DESCRIPTION OF SECURITIES

## General

Our authorized capital stock consists of 500,000,000 shares of common stock at a no par value and 50,000,000 shares of preferred stock at a par value of $0.01 per share. There are no provisions in our charter or by-laws that would delay, defer or prevent a change in our control.

## Common Stock

As of January 16, 2008, 173,402,188 shares of common stock are issued and outstanding and held by approximately 1,456 stockholders. Holders of our common stock are entitled to one vote for each share on all matters submitted to a stockholder vote.

Holders of common stock do not have cumulative voting rights. Therefore, holders of a majority of the shares of common stock voting for the election of directors can elect all of the directors. Holders of our common stock representing a majority of the voting power of our capital stock issued and outstanding and entitled to vote, represented in person or by proxy, are necessary to constitute a quorum at any meeting of our stockholders. A vote by the holders of a majority of our outstanding shares is required to effectuate certain fundamental corporate changes such as liquidation, merger or an amendment to our Articles of Incorporation.

Although there are no provisions in our charter or by-laws that may delay, defer or prevent a change in control, we are authorized, without stockholder approval, to issue shares of preferred stock that may contain rights or restrictions that could have this effect.

Holders of common stock are entitled to share in all dividends that the board of directors, in its discretion, declares from legally available funds. In the event of liquidation, dissolution or winding up, each outstanding share entitles its holder to participate pro rata in all assets that remain after payment of liabilities and after providing for each class of stock, if any, having preference over the common stock. Holders of our common stock have no pre-emptive rights, no conversion rights and there are no redemption provisions applicable to our common stock.

## Preferred Stock

The Company is authorized to issue up to 50,000,000 shares of preferred stock, $0.01 par value per share (the Preferred Stock ). Dividends on the Preferred Stock may be declared from time to time by the Board of Directors. The Preferred Shares are entitled to a preference over holders of the Company s Common Stock equal to the par value of the shares of Preferred Stock held, plus any unpaid dividends declared. As of January 17, 2008, no shares of Preferred Stock had been issued.

## Dividends

We have never declared or paid any cash dividends on shares of our capital stock. We currently intend to retain earnings, if any, to fund the development and growth of our business and do not anticipate paying cash dividends in the foreseeable future. Our payment of any future dividends will be at the discretion of our board of directors after taking into account various factors, including our financial condition, operating results, cash needs and growth plans.

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# INTERESTS OF NAMED EXPERTS AND COUNSEL

Except for Michael Littman Esq., no expert or counsel named in this Prospectus as having prepared or certified any part of this Prospectus or having given an opinion upon the validity of the securities being registered or upon other legal matters in connection with the registration or offering of the common stock was employed on a contingency basis, or had, or is to receive, in connection with the offering, a substantial interest, direct or indirect, in the registrant or any of its parents or subsidiaries. Nor was any such person connected with the registrant or any of its parents or subsidiaries as a promoter, managing or principal underwriter, voting trustee, director, officer or employee.

The financial statements for the year ended September 30, 2007, 2006 and 2005, included in this Prospectus and the registration statement have been audited by Jaspers + Hall, PC, independent registered public accounting firm, to the extent and for the periods set forth in their report elsewhere herein and in the registration statement, and are included in reliance upon such report given upon the authority of said firm as experts in auditing and accounting.

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# DISCLOSURE OF COMMISSION POSTION OF INDEMNIFICATION FOR SECURITIES ACT LIABILITIES

Directors and officers are indemnified as provided by the Colorado Statutes and our Bylaws. We have been advised that in the opinion of the SEC indemnification for liabilities arising under the Securities Act is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities is asserted by one of our directors, officers, or controlling persons in connection with the securities being registered, we will, unless in the opinion of our legal counsel the matter has been settled by controlling precedent, submit the question whether such indemnification is against public policy to a court of appropriate jurisdiction. We will then be governed by the court s decision.



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# DESCRIPTION OF BUSINESS

## Business Overview

XsunX is a thin-film photovoltaic ( TFPV ) company that intends to grow its business by manufacturing TFPV amorphous solar modules and selling them into what we believe is a high growth solar market opportunity. Our decision to pursue this strategy is based on our three years of research in the design and use of technologies for the manufacture of TFPV solar cells utilizing amorphous silicon. During this time we have developed the technical capabilities, qualified core staff, and market understanding that we believe will be necessary to establish product manufacturing infrastructure and take our product to market.

We have designed a TFPV solar module which we believe will deliver an average of 125 peak watts. To produce solar modules in commercial quantities we intend to processes glass substrates within a proprietary semiconductor manufacturing system which employs the design of a high-throughput, automated, continuous process. We believe that the design of our TFPV module and manufacturing system can deliver per watt costs significantly less than those of traditional crystalline silicon solar module manufacturers, and allow us to market TFPV modules that will be highly competitive with other thin film offerings.

Our plan for growth is to build and operate a TFPV solar module manufacturing facility in the state of Oregon. Employing a phased roll-out of manufacturing capacities, our baseline production system is scheduled for installation in mid calendar year 2008, the installation of our first 25MW line is scheduled near the end of calendar 2008, and the installation of our 4$^{th}$ 25MW line is scheduled for early 2010. In anticipation of commercial production, we have begun to market our TFPV solar module under the bran name of the XsunX ASI-120. Furthermore, we have successfully developed and implemented a pre-sales reservation program for system installers and large users of solar.

## Markets

We believe the solar market represents a high growth opportunity nationally and internationally, both currently and into the foreseeable future. The global demand for electrical energy has experienced significant growth due to growth in populations and the economic vitality of emerging economies. This has created a growing need to diversify and establish new sources of electrical production, and we believe has created tremendous opportunities for growth in the solar market. Within the markets for solar products we anticipate that growth in demand for solar products based on TFPV technologies will out perform the balance of the solar market.

Macro growth drivers for solar energy production products include political support and government subsidies, high energy prices, technical progress having led to cost reductions in manufacturing techniques, and advantages over other renewable energy sources including:

Proven, commercialized and widely used solar technologies adapting to a host of applications
Negligible environmental impact
Reliability, little or no delivery risk
Maximum power generation coincides with peak energy demands
Potential for distributed point of use generation

Growth drivers that we believe may allow TFPV to outpace the balance of the solar market include:

Highly scalable and automated manufacturing processes
Lower material costs and fewer constraints to sufficient material supplies
Lower per watt production costs for solar cells and integrated solar modules

Driving our solar module manufacturing plan is what we believe to be the ability to capitalize on long term growth in solar spurred by increasing electrical energy costs and demand. Large markets are developing for commercial operators of private solar farms, utilities meeting green mandates, government subsidized installations, and operators of large commercial and industrial properties. These projects represent large installations typically approaching 1MW or more.



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While we believe that the market conditions are excellent for all producers of solar products, we intend to deliver thin film solar products that provide extra value in performance and cost.

# Products

## Solar Modules

In designing our XsunX ASI-120 module, we interviewed solar systems integrators and developed a design that we believe provides for a module delivering high power output (relative to other thin films), and size and framing that would allow for the use of many existing mounting systems. In doing so, we believe our modules strike a balance between higher rated power silicon wafer modules and lower rated power thin film modules. Further, we believe the market will dictate retail installed pricing. Systems integrators will look to sell installed watts at market dictated prices, and after accounting for certain fixed installation costs inherent to each of the different solar technologies, they will drive pricing per watt for factory delivered modules to compensate for any added installation costs when using certain technologies.

We have focused on the development of thin film amorphous technologies and products due to what we perceive as inherent advantages of amorphous silicon over other solar absorbers in regards to conversion efficiencies. Amorphous silicon produces more power earlier in the day and later into the evening because it requires less incident light than many other technologies. Amorphous silicon also exhibits less thermal coefficient degradation effects when operating in hot climates. In contrast, other thin film and conventional silicon wafer technologies degrade at significant rates of approximately 10% to 20% conversion loss of peak rated performance when operating at normal temperatures of 65 degrees centigrade.

We plan to deposit two separate solar cell layers of amorphous silicon on to a glass substrate. This is to increase the amount of absorbed and converted solar energy in our modules. Based on previous experimental and limited commercial use of our thin film deposition recipes, we anticipate the finished solar module to produce 7.9% frame to frame efficiency delivering approximately 125 peak watts of direct current DC power. We believe that we may be able to improve conversion efficiencies through the use of derivative forms of amorphous and other proprietary cell structures.

We anticipate that we can present the superior per-rated-watt-performance of amorphous in real world operating conditions as a competitive strength over the factory-rated performance of various other solar technologies. We believe these factors will influence the purchasing decision process of large solar power farms and utility size installations.

## Product Competitive Strengths

Other product and manufacturing design strengths that may allow us to become a competitive force within the solar energy industry and the broader electric power industry include:

*Cost-Per-Watt Advantage.* We contend the design of our solar module and our vertical, in-line, continuous process production system may allow us to take advantage of economies of scale and accelerate development cycles, enabling possible further reductions in our manufacturing costs per watt. As we introduce planned manufacturing efficiency gains, we anticipate our per watt production costs to fall from initially $1.58 in 2008 to approximately $1.19 per watt by 2011. We believe this pricing will continue to be significantly less than the costs of crystalline silicon solar modules. As we mature and integrate new cell designs and materials, we believe the opportunity exists to drive cell performance above 8% and deliver wholesale costs per watt approaching $1 per watt or less.

*Stable Material Availability.* Our planned operations are not impacted by the current shortage of polysilicon (a key raw material for conventional non thin film solar module products) that is affecting most of our competitors through higher costs and limited availability. The key raw materials to be used in our solar module design are low iron tempered glass, high purity industrial gases such as argon, nitrogen, hydrogen, silane and germane, and extruded aluminum for module framing with polymer materials employed in the encapsulation for weather proofing. We believe we have adequate sources for the supply of these key raw materials and components for our manufacturing needs and in most instances, have selected multiple source suppliers. As we begin to scale manufacturing efforts, we may single out certain key suppliers to enhance



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efficiency, cost and quality. The cost of certain raw materials may rise over the next several years and we intend to actively manage these costs through purchasing strategies, product design, and operating improvements.

*Non-Toxic Finished Product.* The design of our amorphous solar module transfers no heavy metals or toxic compounds in the finished product. Conventional polysilicon solar modules contain lead based cell interconnections and thin films such as cadmium telluride (CdTe) and copper indium gallium selenide (CIGS) contain toxic materials in the finished product.

*Large Area, High Power Delivery Module Design.* Our intent and execution plan is to work on establishing the most efficient way to deliver a commercially viable solar module at competitive price points as opposed to focusing strictly on how to increase energy conversion efficiencies of the solar cell. Our solar module is based on established module designs and well known manufacturing processes necessary to deliver a large area, TFPV module producing what we believe to be nearly twice the rated power delivery per module of other thin film offerings. We believe this design will require fewer solar panels per installation compared to the use of other thin film systems, thereby reducing the overall costs associated with mounting, installation, wiring and interconnection of fewer parts and pieces.

*Knowledgeable System Component Vendor Base*. Amorphous TFPV benefits from nearly thirty years of process development and research, which has produced a knowledgeable and experienced vendor base. These vendors provide access to improved semiconductor device technologies resulting in improvements to manufacturing processes in related areas such as thin film transistors, memory devices, and high performance opto-electric coatings. We have engaged a select group of these vendors and established a primary and secondary vendor for each major system component.

## Certifications

We have selected components for use in our TFPV solar module that have previously been tested by Underwriters Laboratories (UL) and approved for use in the manufacture of solar modules. We plan to submit these materials, and a full scale working sample of our TFPV module, to UL for the purpose of receiving UL certification 1703 in the 2008 period. Upon completion of initial module production capabilities we plan to submit modules for participation in laboratory and field tests with the National Renewable Energy Laboratory, the Fraunhofer Institute for Solar Energy.

We plan to work to achieve and maintain all certifications required to sell solar modules in the markets we plan or expect to serve, including UL 1703, IEC 61646, TÜV Safety Class II and CE.

# Planned Manufacturing Capacities

## Production Line Features

The core feature of our plan revolves around the design of an efficient mass production system. The design utilizes an in-line vertical glass coating system processing two balanced and independent lines simultaneously. This design incorporates material handling, cell deposition, laser segmentation, cleaning, and module packaging functions necessary to convert an inexpensive piece of 100cm X 160cm sheet glass into a complete solar module in less than three hours. Our process uses only a fraction of the semiconductor material that would be necessary to produce crystalline silicon solar modules.

## Phased Production Build Out and Planned Capacities

In the 2008 calendar year, we anticipate completing the assembly and installation of a small scale baseline production system and initiating construction of our first full scale 25 MW system. We further anticipate that the baseline production system will generate limited solar module production in 2008 for use in fueling our sales channel and establishing product recognition for larger quantity sales in 2009. We anticipate completing the assembly of and commissioning our first 25MW line between December 2008 and January 2009. Near the end of the 2008 calendar year, we plan to launch the build-out of the first of three additional 25 MW systems necessary to eventually bring our capacity to 100 MW. Barring assembly delays, the first of these lines is slated to come on-line in November 2009, the second in January 2010, and the final 25 MW in March 2010. We intend to use the balance of the 2010 year to continue to work to improve system utilization,

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add shifts, and increase module yields to bring our production to peak capacities of 100 MW or more of annualized solar module production. To complete each new production line, we plan to use a systematic replication process that is designed to enable us to add production lines rapidly and efficiently, and achieve operating metrics that are comparable to the performance of our initial 25 MW system.

## Production Line Planned Utilization and Production Costs

Each system, or line, has an estimated annualized initial module production capacity of approximately 25 megawatts, MW per annum, based on an initial 58% system utilization (the percentage of system utilization in each 7 day by 24 hour period) and 80% yield (the percentage of product meeting saleable specifications). We plan to ramp-up system utilization and yield to industry standards of 80% & 85% respectively over the course of the first full year of production in 2009, thereby increasing total production capacities per line to an anticipated 33MW. Initial per watt production costs during ramp-up of operations in the 2009 period are anticipated to be $1.58 per watt. As we improve system utilization and production yield in 2009, we anticipate our production costs will lower to $1.38 in 2010 and $1.19 in 2011. By continuing to expand production and improve solar energy conversion efficiencies and manufacturing processes, we believe we can further reduce our manufacturing costs per watt and improve our cost advantage over traditional crystalline silicon solar module manufacturers.

At present, the majority of our operations development efforts for the period ending September 2008 and the foreseeable future thereafter will focus on establishing and expanding facilities necessary to manufacture our TFPV solar modules for commercial sale. Areas of specific focus and capital expenditures include:

(a) Lease and preparation of facilities necessary to house and operate, at minimum, our first of four proposed 25MW manufacturing lines; and

(b) Establishment of a baseline production system to produce full size (100cmx160cm) sample modules; and

(c) The placement of orders with selected vendors for the core and sub-system components necessary to begin assembly leading to the commissioning of the first of four proposed 25MW manufacturing lines; and

(d) Continued R&D efforts to establish enhanced solar cell deposition methods and reduce manufacturing costs.

The purpose of these ongoing investments is to first establish a base TFPV solar module manufacturing infrastructure necessary to produce approximately 25MW of annualized solar module production, and second, to establish a replication process designed to enable us to add the balance of our proposed three additional production lines as rapidly and efficiently as possible.

The following chart summarizes our planned initial production capacity and installation timing:

| Manufacturing Facility | Number of Production Lines | Initial Annualized Solar Modules* | Initial Annualized Watts* | Anticipated System Commissioning Date |
|---|---|---|---|---|
| 1st line | 1 | 190,000 | 25MW | Dec 2008 |
| Addition of 2nd line | 1 | 190,000 | 25MW | Nov 2009 |
| Addition of 3rd line | 1 | 190,000 | 25MW | Jan 2010 |
| Addition of 4th line | 1 | 190,000 | 25MW | Mar 2010 |
| Total Planned | 4 | 760,000 | 100MW | |

* Annualized solar module production rates are based on an initial system utilization rate of 58% (the percentage of system utilization in each 7 day by 24 hour period) and 80% yield (the percentage of product meeting saleable

specifications). We plan to ramp-up system utilization and yield to industry standards of 80% & 85% respectively over the course of the first full year of production of each system. We anticipate that due to normal production variables we will produce on average marketable solar modules ranging from between 115 to 130 watts each.

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# Sales and Marketing

Driving our solar module manufacturing plan is what we believe to be the ability to capitalize on long term growth in solar spurred by increasing electrical energy costs and demand. Large markets are developing for commercial operators of private solar farms, utilities meeting green mandates, government subsidized installations, and operators of large commercial and industrial properties. These projects represent large installations typically approaching 1MW or more.

Solar systems installers looking to satisfy the module needs of these large and long term projects are looking for opportunities to secure access to modules supplies. We believe that the design and performance of our solar module is ideally suited for use in these project types, and we further believe that our module production capacities can be pre-sold well into the future.

## Target Markets

Our primary target markets for our TFPV solar modules will be applications for On-Grid (facilities tied to conventional power distribution infrastructure) application of 1MW in size and above. Typical applications and buyers would include:

Solar Farms
License Holders in Germany, Spain & Canada
US installers servicing commercial and utility scale installations
Government Agencies (DOD)
Bureau of Land Management
Department of Defense
Power Purchase Agreements
Renewable Ventures
Utility Companies
Meeting Green Mandates
Large Commercial Installations

## Pricing

Our analysis made in predicting the anticipated sales per watt for module production in the years 2009, 2010, and 2011 was based on several factors. These factors included a review of pricing of both crystalline and thin film per watt sales trends for the previous several years including 2007 pricing trends. Trends were primarily derived from pricing surveys conducted by interviews and an industry watch firm named SolarBuzz.com. The following pricing of both crystalline and thin film for September 2007 was produced by SolarBuzz.com:

*The lowest retail price for a multicrystalline solar module is $4.11 per watt (€3.00 per watt) from a US retailer. The lowest retail price for a monocrystalline module is $4.30 per watt (€3.14 per watt), also from a US retailer.* **And** *The lowest thin film module price is at $3.49 per watt (€2.55/Wp) per watt from a European retailer. As a general rule, it is typical to expect thin film modules to be at a price discount to crystalline silicon (for like module powers). This thin* *film price is represented by a 60 watt module.*

The pricing in the thin film category represents modules below 100 watts of stated peak power. Specifically, modules producing total peak power of only 60 watts were priced lowest at $3.49 per watt.

XsunX determined that a key driver in the lower price point for most thin film in relation to crystalline modules was the discount value assigned to the lower total power output per module requiring more modules per installation. As an example, if a 10 kW project were to employ the use of 65watt cadmium telluride (CdTe) or copper indium gallium selenide (CIGS) modules as opposed to 125 watt amorphous silicon (a-Si) modules, the required number of modules necessary for installation would be approximately 70 more units.



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Additional units may also be necessary to compensate for thermal coefficient performance loss of a CdTe or CIGS solar cell resulting in power production loss from heat at normal operating temperatures*. In our estimate, this may bring the total number of additional units to an excess of 70 more 65 watt modules for the same project than with the use of a 125 watt amorphous module. To an installer/integrator, the use of more modules would increase overall balance of systems (BOS) cost due to increased labor, mounting hardware, and interconnection cost. We believe that integrators may demand lower per watt price points for certain modules over others as a result of these additional system costs.

In developing price points for the XsunX ASI-120 module, we determined that the rated power output of our device struck a balance between higher energy density crystalline modules and the lower power 60 to 75 watt products offered by other TFPV manufactures such as First Solar, Sharp, and ECD. The following chart reviews our factory per watt pricing assumptions based on integrator interviews, industry publications, and our manufacturing cost assumptions.

| Period | Crystalline | Thin-Film<100 watt | XsunX Thin Film>120 watt |
|---|---|---|---|
| 2009 | $ 3.25 | $ 2.25 | $ 2.60 |
| 2010 | $ 3.00 | $ 2.00 | $ 2.40 |
| 2011 | $ 2.90 | $ 1.75 | $ 2.00 |

* NOTE: Solar technologies such as silicon wafer, CdTe, and CIGS exhibit performance loss due to heat. While the factory rated Peak power is determined at 25 degrees centigrade, real world operating temperatures average 65 degrees centigrade. This potential 40 degree increase can affect different solar technologies in varying percentages of approximately ¼ to ½ percent per degree in conversion efficiency. This results in an approximate reduction in efficiency at the Peak period (noon) of about 10% to 20%. To place this in perspective, a 100 watt module (silicon wafer, CdTe, CIGS) would deliver approximately 90 to 80 watts of power during the peak periods while operating at 65 degrees centigrade. Amorphous silicon does not experience the same degree of performance degradation, realizing only about 3% or less performance loss.

## Sales & Distribution

In anticipation of commercial production, we have developed a pre-sales reservation program, based upon the solar module manufacturing industry s policy of pre-selling manufacturing capacity to system installers and large users of solar. This is intended to aid in building a sales channel, loading that channel with customers interested in purchasing our future module production, and developing brand presence and recognition as early as possible. The program enables qualified, interested parties to specify the amount of solar module capacity they anticipate purchasing at favorable per watt pricing. As of the date of this report, we have signed reservation agreements with solar system integrators indicating interest in over 100 MW of production in calendar 2008, 2009, 2010. Our agreements provide for the payment of a 5% deposit based on the 2009 calendar year purchase commitment either prior to, or not later than, 30 days after the delivery by XsunX to the reserving party of commercial samples for evaluation. The information in this paragraph is designed to summarize the general terms of the pre-sales reservation program and market opportunities. It is not intended to provide guidance about our future operating results, including revenues or profitability.

# Product and Technology Development

Since our initial reorganization in October 2003 through the second period ended March 2007, we have focused the majority of our operational budgets towards the development of technological infrastructure, research and development of solar cell device types and manufacturing techniques, and the licensure of certain patented and patent pending technologies related to solar cell devices and manufacturing techniques. We focused on the solar cell structure and thin film manufacturing processes for amorphous and microcrystalline materials. The primary business purpose for these efforts was to establish intellectual property and know how that could be sold and/or licensed to third parties for use in the development of their respective solar product businesses. Over this period, we committed approximately $4,069,981 towards the above product and technical know how development.





In March 2007, we re-evaluated our business development and technology plans and launched efforts to prepare a plan to grow XsunX through the manufacturing and sales of TFPV solar modules. Our proposed expansion into solar module manufacturing required that we develop additional technical expertise in the areas of large area cell integration and packaging techniques necessary to produce commercially viable solar modules. Between March 2007 and the period ended September 30, 2007 we focused on the development of a TFPV solar module design, an integrated manufacturing and assembly line, attracting government incentive programs to offset start-up and initial operations costs of our proposed facilities, and the qualification of systems and material vendors to supply the manufacturing equipment and materials necessary to establish and operate our proposed manufacturing facilities.

We anticipate that for the foreseeable future the core of our operations and efforts will focus on the establishment of TFPV solar module manufacturing capabilities. Separately, we continue to explore opportunities with parties interested in the licensing and cooperative commercial development and use of our semi-transparent TFPV technologies.

The Company continues to develop additional processes, techniques, and device designs. These research and development efforts may provide the Company with additional proprietary technology that may lead to the filing of new provisional and patent applications.

# Intellectual Property

In September 2003 the Company was assigned the rights to three patents as part of an Asset Purchase Agreement with Xoptix Inc., a California corporation. The patents acquired were No. 6,180,871 for Transparent Solar Cell and Method of Fabrication (Device), granted on January 30, 2001; No. 6,320,117 for Transparent Solar Cell and Method of Fabrication (Method of Fabrication), granted on November 20, 2001; and No. 6,509,204 for Transparent Solar Cell and Method of Fabrication (formed with a Schottky barrier diode and method of its manufacture), granted on January

21, 2003.

XsunX licensed the patent and technology portfolio of MVSystems, Inc., a Colorado corporation ( MVSystems ) in September 2004 and then later expanded our use rights under the license in October 2005. The patents acquired were Semiconductor Vacuum Deposition System And Method Having A Reel-To-Reel Substrate Cassette: US6, 258,408 B1: July 10th, 2001 (Method of Fabrication); and US Provisional Patent Application serial number 60/536,151 three terminal and four terminal solar cells, solar cell panels, and method of manufacture (Device and Method of Fabrication). The license granted XsunX the royalty free exclusive rights for use by XsunX in its pursuit to establish a commercially viable process for the manufacture of TFPV solar cells and accordingly, included all MVSystems technology, know how, and resources which are part of or related to the licensed patents and technology that was then or may become applicable or beneficial to the furtherance of the business objectives of XsunX in the future. The license was exclusive as to technology pertaining to the XsunX field of use as it pertains to the business of developing, commercializing and licensing processes for the manufacture of solar cells or photovoltaic technologies.

Effective January 1, 2007 we entered into a cooperative development agreement with Sencera, LLC for the licensure and development of a Sencera patent pending plasma source for use in the manufacture of deposited thin-film solar cells. Under the terms of the agreement, XsunX and Sencera entered into a Technology Development and License Agreement, providing for a phased program to further develop and proof the Sencera plasma source for use in the manufacture of deposited thin-film solar cells. In connection with the agreement, Sencera issued XsunX a seven (7) year royalty based license that provides XsunX with exclusivity in the area of the XsunX field of use as claimed in U.S. Patent No. 6,180,871; 6,320,117; 6,509,204; 6,488,777; 6,258,408; 6,472,622; and (b) as claimed in U.S. Provisional Application No. 60/536,151; and (c) for use in semi-transparent photovoltaic devices, multi-terminal photovoltaic devices, and cassette-based roll-to-roll manufacturing equipment.

The Company continues to develop additional processes, techniques, and device designs. These research and development efforts may provide the Company with additional proprietary technology that may lead to the filing of new provisional and patent applications.



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# Company History

XsunX is a Colorado corporation formerly known as Sun River Mining Inc. Sun River ). The Company was originally incorporated in Colorado on February 25, 1997. Effective September 24, 2003, the Company completed a Plan of Reorganization and Asset Purchase Agreement (the Plan ).

Pursuant to the Plan, the Company acquired the following three patents from Xoptix, Inc., a California corporation for Seventy Million (70,000,000) shares of common stock (post reverse split one for twenty): No. 6,180,871 for Transparent Solar Cell and Method of Fabrication (Device), granted on January 30, 2001; No. 6,320,117 for Transparent Solar Cell and Method of Fabrication (Method of Fabrication), granted on November 20, 2001; and No. 6,509,204 for Transparent Solar Cell and Method of Fabrication (formed with a Schottky barrier diode and method of its manufacture), granted on January 21, 2003.

Pursuant to the Plan, the Company authorized the issuance of 110,530,000 (post reverse split) common shares. Prior to the Plan the Company had no tangible assets and insignificant liabilities. Subsequent to the Plan, the Company completed its name change from Sun River Mining, Inc. to XsunX, Inc. The transaction was completed on September 30, 2003.

## Government Contracts

There are no government contracts at this time.

## Competitive Conditions

Currently, management is aware of other amorphous silicon and thin film products similar to those proposed for manufacture by us on the market. Although similar in respect to the operation and use of these technologies, the Company believes the design of our large area TFPV solar module delivering 125 watts of DC power provides marketable improvements over other thin film products offering less total power output per module technologies. We believe our design will require fewer TFPV solar panels per installation compared to the use of other thin film systems, thereby reducing the overall costs associated with mounting, installation, wiring, and interconnection of fewer parts and pieces.

However, a number of solar cell technologies have and are being developed by other companies. Such technologies include amorphous silicon, cadmium telluride, copper-indium-gallium-selenide (CIGS), and copper indium diselenide as well as advanced concepts in thin film crystalline silicon, and the use of organic materials. Given the benefit of time, investment, and advances in manufacturing technologies any of these competing technologies may be offered in formats delivering power similar or greater to our design, and they may also achieve manufacturing costs per watt lower than our cost per watt to manufacture a TFPV solar module.

In accessing the principal competitive factors in the market for solar electric power products, we use price per watt, stability and reliability, conversion efficiency, diversity in use applications, and other performance metrics such as scalability of manufacturing processes and the ability to adapt new technologies into cell designs and the manufacturing process without antiquation of existing infrastructure. If we do not compete successfully with respect to these or other factors, it could materially and adversely affect our business, results of operations, and financial condition.

A number of large companies are actively engaged in the development, manufacturing and marketing of solar electric power products. The five largest TFPV cell suppliers are Q-Cells Shell Solar, Sharp Corporation, BP Solar, Kyocera Corporation, First Solar, and Energy Conversion Devices, which together supply the significant portion of the current TFPV market. All of these companies have greater resources to devote to research, development, manufacturing and marketing than we do.

Other competitive factors lie in the current use of other clean, renewable energy technologies such as wind, ocean thermal, ocean tidal, and geo-thermal power sources and conventional fossil fuel based technologies for the production of electricity. We expect our primary competition will be within the solar cell marketplace itself. Barriers to entering the solar cell manufacturing industry include the technical know-how required to produce solar cells that maintain acceptable efficiency rates, the design of efficient and scalable manufacturing processes, and access to necessary manufacturing infrastructure.



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## Compliance With Environmental Laws and Regulations

The operations of the Company are subject to local, state and federal laws and regulations governing environmental quality and pollution control. To date, compliance with these regulations by the Company has had no material effect on the Company s operations, capital, earnings, or competitive position, and the cost of such compliance has not been material. The Company is unable to assess or predict at this time what effect additional regulations or legislation could have on its activities.

# Employees and Consultants

The Company is a development stage company and as of September 30, 2007 had 6 salaried employees. This represents an increase of 1 employee over the same period ended 2006. The Company also engages several consultants to perform specific functions that otherwise would require an employee. The Company projects that during the next 12 months the Company s workforce is likely to increase to 22, with 2 of the new employees being in Administrative, 2 in Marketing and Sales positions, 5 Scientific and Technical positions, 4 in Manufacturing Technicians, and 3 in Administrative Support. In addition to the anticipated retention of new employees the Company expects to expand its use of strategic relationships to leverage industry expertise in areas of design, systems automation, manufacturing and assembly to augment product commercialization time lines and the delivery of technologies. The Company may find a need to engage additional full-time employees as necessary.

# Scientific Advisory Board

In September 2004 the Company established the XsunX Scientific Advisory Board to attract qualified specialists from the fields of material and device engineering. During the fiscal year 2007, the membership of the advisory board was enhanced to reflect the current operational status of the Company. It is anticipated that panel members will be engaged for a period of two years. The qualifications and biographical information for the members of the panel are as follows:

## Dr. John J. Moore Chairman Scientific Advisory Board

Dr. John J. Moore is a Materials Scientist who currently holds the position of Trustees Professor and Head of Department of Metallurgical and Materials Engineering at the Colorado School of Mines. Dr. Moore is also Director of the interdisciplinary graduate program in Materials Science and Director of the Advanced Coatings and Surface Engineering Laboratory, ACSEL, at the Colorado School of Mines in Golden. He has been at the Colorado School of Mines since 1989.

Dr. Moore was awarded a B.Sc. in Materials Science and Engineering from the University of Surrey, UK, in 1966, a Ph.D. in Industrial Metallurgy from the University of Birmingham, UK, in 1969, and a D.Eng. from the School of Materials of the University of Birmingham, UK, in 1996. Dr. Moore worked as a Student Apprentice at Stewarts and Lloyds Ltd., UK, from 1962 to 1966, and as Manager of Industrial Engineering and Production Control at Birmid-Qualcast Industries Ltd., UK, the largest die casters in Europe at the time, from 1969 to 1974.

Prior to his appointment at the Colorado School of Mines, Dr. Moore served as Professor & Head, Department of Chemical and Materials Engineering, University of Auckland, New Zealand, from 1986 to 1989; Professor of Metallurgical Engineering at the University of Minnesota, USA, from 1979 to 1986, and Senior Lecturer of Chemical Metallurgy at Sandwell College, England, from 1974 to 1979.

Dr. Moore has published more than 500 papers in materials science and engineering journals, holds 13 patents, and has been the author or co-auth or editor of 9 books. Dr. Moore is a Fellow of the Institute of Materials (UK), a Fellow ASM International, a Fellow of the American Ceramic Society, and a Chartered Engineer, (C.Eng.), in the UK. Dr. Moore is also an Honorary Professor and has been awarded an Honorary Doctorate from the Moscow State Institute of Steels and Alloys, Russia.

## Dr. Richard K. Ahrenkiel, Member Scientific Advisory Board

Richard K. Ahrenkiel is currently a Research Professor of Metallurgical and Materials Engineering at the Colorado School of Mines in Golden, Colorado. He is also a Consultant and Research Fellow Emeritus at the National Renewable Energy Laboratory (NREL), (formerly the Solar Energy Research Institute) Golden,



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Colorado, where he worked from 1981 to 2005. He became a Research Fellow at NREL in 2000. His area of specialization is the measurement and characterization of photovoltaic cells and materials. He also works in photovoltaic device design and modeling. He received a B.S. degree in Engineering Physics and the M.S. and Ph.D degrees in Physics at the University of Illinois, Urbana. He joined the staff of the Research Laboratories of the Eastman Kodak Company. From 1972 76, he worked on the newly founded electronic photography project using silicon charge coupled devices as sensing elements. He joined Laser Division of the Los Alamos National Laboratory in 1976 (then LASL), and in 1978, he became a Group Leader in the Electronics Division of LANL. He is a Fellow of the American Physical Society, the Institute of Electrical and Electronic Engineers (IEEE), the American Vacuum Society, and the Optical Society of America.

## Edward T. Yu, Member Scientific Advisory Board

Edward T. Yu is currently Professor of Electrical and Computer Engineering at the University of California, San Diego (UCSD). He received his A.B. (summa cum laude) and A.M. degrees in Physics from Harvard University in 1986, and his Ph.D. degree in Applied Physics from the California Institute of Technology in 1991. From 1986 to 1989 he was a National Science Foundation Doctoral Fellow, and from 1989 to 1991 he was an AT&T Bell Laboratories Ph.D. Scholar, holding both appointments at Caltech. From 1991 to 1992 he was a Postdoctoral Fellow at the IBM Thomas J. Watson Research Center in Yorktown Heights, NY. From 1992 to 1996 he was Assistant Professor of Electrical and Computer Engineering at UCSD, and from 1996 to 1998 he was Associate Professor. He has held his current appointment as Professor since 1998. Dr. Yu also serves currently as a member of the DARPA Defense Sciences Research Council.

At UCSD Professor Yu directs a research laboratory concerned generally with the characterization, understanding, and application of physical phenomena and of solid-state material and device properties at nanometer to atomic length scales. Current research interests in his group include III-V nitride heterostructure materials and device physics; scanning probe characterization of advanced electronic materials and devices; solid-state nanoscience and nanotechnology; and photovoltaics and other technologies for energy generation. The results of his research have been reported in over 120 refereed journal publications and over 175 conference and seminar presentations.

## Dr. Michael A. Russak, Member Scientific Advisory Board

Dr. Michael A. Russak has been working as a consultant in the hard disk drive and photovoltaic industries since Jan 2007. He is also currently the Executive Director of IDEMA-U.S. (the hard disk drive industry trade association) and a member of the Board of Directors and Scientific Advisory Board of XsunX, Inc. From 2001 to 2006 he was President and Chief Technical Officer of Komag, Inc., a manufacturer of hard magnetic recording disks for hard disk drive applications. From 1993 to 2001 he was Chief Technical Officer of HMT Technology, Inc. also a manufacturer of magnetic recording disks. From 1985 to 1993 he was a research staff member and program manager in the Research Division of the IBM Corporation. Dr. Russak has over thirty five years of industrial experience progressing from a research scientist to senior executive officer of two public companies. He has expertise in thin film materials and devices for magnetic recording, photovoltaic, solar thermal applications, semiconductor devices as well as glass,

glass-ceramic and ceramic materials. He also has over twelve years experience at the executive management level of public companies with significant off shore development and manufacturing functions. He received his B.S. in Ceramic Engineering in 1968 and Ph.D. in Materials Science in 1971, both from Rutgers University in New Brunswick, NJ. During his career, he has been a contributing scientist and program manager at the Grumman Aerospace Corporation, a Research Staff Member and technical manager in the areas of thin film materials and processes at the Research Division of the IBM Corporation at the T.J. Watson Research Laboratories. In 1993, he joined HMT Technology, a manufacturer of thin film disks for magnetic storage, as Vice President of Research and Development. His responsibilities included new product design and introduction. Dr. Russak became Chief Technical Officer of HMT and held that position until 2000 when HMT merged with Komag Inc. Dr. Russak was appointed President and Chief Technical Officer of the combined company. He continued to set technical, operational and business direction for Komag until his retirement at the end of 2006. He has published over 90 technical papers, and holds 23 U.S. patents.



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## Available Information

Our website address is *www.xsunx.com*. We make available on our website access to our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to these reports that we have filed with the SEC. The information found on our website is not part of this or any other report we file with, or furnish to, the SEC.



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# MANAGEMENT S DISCUSSION AND ANALYSIS OR PLAN OF OPERATION

## Business Overview

XsunX is a thin-film photovoltaic ( TFPV ) company that intends to grow its business by manufacturing TFPV amorphous solar modules and selling them into what we believe is a high growth solar market opportunity. Our decision to pursue this strategy is based on our three years of research in the design and use of technologies for the manufacture of TFPV solar cells utilizing amorphous silicon. During this time we have developed the technical capabilities, qualified core staff, and market understanding that we believe will be necessary to establish product manufacturing infrastructure and take our product to market.

We have designed a 125 peak watt TFPV solar module utilizing glass substrates and a proprietary semiconductor manufacturing system which employs the design of a high-throughput, automated, continuous process to produce solar modules in commercial quantities. We believe that these key processes can deliver per watt costs significantly less than those of traditional crystalline silicon solar module manufacturers and allow us to market TFPV modules that will be highly competitive with other thin film offerings.

Our plan for growth is to build and operate a TFPV solar module manufacturing facility in the state of Oregon. Employing a phased roll-out of manufacturing capacities our baseline production system is scheduled for installation in mid calendar year 2008, the installation of our first 25MW line is scheduled near the end of calendar 2008, and the installation of our 4th 25MW line is scheduled for early 2010. In anticipation of commercial production, we have begun to market our TFPV solar module under the brand name of the XsunX ASI-120. Furthermore, we have successfully developed and implemented a pre-sales reservation program for system installers and large users of solar.

# Markets

We believe the solar market represents a high growth opportunity nationally and internationally, both currently and into the foreseeable future. The global demand for electrical energy has experienced significant growth due to growth in populations and the economic vitality of emerging economies. This has created a growing need to diversify and establish new sources of electrical production, and we believe has created tremendous opportunities for growth in the solar market. Within the markets for solar products we anticipate that growth in demand for solar products based on TFPV technologies will out perform the balance of the solar market.

Macro growth drivers for solar energy production products include political support and government subsidies, high energy prices, technical progress having led to cost reductions in manufacturing techniques, and advantages over other renewable energy sources including:

Proven, commercialized and widely used solar technologies adapting to a host of applications
Negligible environmental impact
Reliability, little or no delivery risk
Maximum power generation coincides with peak energy demands
Potential for distributed point of use generation

Growth drivers that we believe may allow TFPV to outpace the balance of the solar market include:

Highly scalable and automated manufacturing processes
Lower material costs and fewer constraints to sufficient material supplies
Lower per watt production costs for solar cells and integrated solar modules

Driving our solar module manufacturing plan is what we believe to be the ability to capitalize on long term growth in solar spurred by increasing electrical energy costs and demand. Large markets are developing for commercial operators of private solar farms, utilities meeting green mandates, government subsidized installations, and operators of large commercial and industrial properties. These projects represent large installations typically approaching 1MW or more.

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While we believe that the market conditions are excellent for all producers of solar products, we intend to deliver thin film solar products that provide extra value in performance and cost.

# Products

## Solar Modules

In designing our ASI-120 watt module, we interviewed solar systems integrators and developed a design that we believe provides for a module delivering high power output (relative to other thin films), and size and framing that would allow for the use of many existing mounting systems. In doing so, we believe our modules strike a balance between higher rated power silicon wafer modules and lower rated power thin film modules. Further, we believe the market will dictate retail installed pricing. Systems integrators will look to sell installed watts at market dictated prices, and after accounting for certain fixed installation costs inherent to each of the different solar technologies, they will drive pricing per watt for factory delivered modules to compensate for any added installation costs when using certain technologies.

We have focused on the development of thin film amorphous technologies and products due to what we perceive as inherent advantages of amorphous silicon over other solar absorbers in regards to conversion efficiencies. Amorphous silicon produces more power earlier in the day and later into the evening because it requires less incident light than many other technologies. Amorphous silicon also exhibits less thermal coefficient degradation effects when operating in hot climates. In contrast, other thin film and conventional silicon wafer technologies degrade at significant rates of approximately 10% to 20% conversion loss of peak rated performance when operating at normal temperatures of 65 degrees centigrade.

We plan to deposit two separate solar cell layers of amorphous silicon on to a glass substrate. This is to increase the amount of absorbed and converted solar energy in our modules. Based on previous experimental and limited commercial use of our thin film deposition recipes, we anticipate the finished solar module to produce 7.9% frame to frame efficiency delivering approximately 125 peak watts of direct current DC power. We believe that we may be able to improve conversion efficiencies through the use of derivative forms of amorphous and other proprietary cell structures.

We anticipate that we can present the superior per-rated-watt-performance of amorphous in real world operating conditions as a competitive strength over the factory-rated performance of various other solar technologies. We believe these factors will influence the purchasing decision process of large solar power farms and utility size installations.

# Planned Manufacturing Capacities

## Production Line Features

The core feature of our plan revolves around the design of an efficient mass production system. The design utilizes an in-line vertical glass coating system processing two balanced and independent lines simultaneously. This design incorporates material handling, cell deposition, laser segmentation, cleaning, and module packaging functions necessary to convert an inexpensive piece of 100cm X 160cm sheet glass into a complete solar module in less than three hours. Our process uses only a fraction of the semiconductor material that would be necessary to produce crystalline silicon solar modules.

## Phased Production Build Out and Planned Capacities

In the 2008 calendar year, we anticipate completing the assembly and installation of a small scale baseline production system and initiating construction and commissioning our first full scale 25 MW system. We further anticipate that the baseline production system will generate limited solar module production in 2008 for use in fueling our sales channel and establishing product recognition for larger quantity sales in 2009. We anticipate completing the assembly of and commissioning our first 25MW line between December 2008 and January 2009. Near the end of the 2008 calendar year, we plan to launch the build-out of the first of three additional 25 MW systems necessary to eventually bring our capacity to 100 MW. Barring assembly delays, the first of these lines is slated to come on-line in November 2009, the second in January 2010, and the final 25 MW in March 2010. We intend to use the balance of the 2010 year to continue to work to improve system utilization, add shifts, and increase module yields to bring our production to peak capacities of 100 MW or

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more of annualized solar module production. To complete each new production line, we plan to use a systematic replication process that is designed to enable us to add production lines rapidly and efficiently, and achieve operating metrics that are comparable to the performance of our initial 25 MW system.

### Production Line Planned Utilization and Production Costs

Each system, or line, has an estimated annualized initial module production capacity of approximately 25 megawatts, MW per annum, based on an initial 58% system utilization (the percentage of system utilization in each 7 day by 24 hour period) and 80% yield (the percentage of product meeting saleable specifications). We plan to ramp-up system utilization and yield to industry standards of 80% & 85% respectively over the course of the first full year of production in 2009, thereby increasing total production capacities per line to an anticipated 33MW. Initial per watt production costs during ramp-up of operations in the 2009 period are anticipated to be $1.58 per watt. As we improve system utilization and production yield in 2009, we anticipate our production costs will lower to $1.38 in 2010 and $1.19 in 2011. By continuing to expand production and improve solar energy conversion efficiencies and manufacturing processes, we believe we can further reduce our manufacturing costs per watt and improve our cost advantage over traditional crystalline silicon solar module manufacturers.

## Sales and Marketing

Driving our solar module manufacturing plan is what we believe to be the ability to capitalize on long term growth in solar spurred by increasing electrical energy costs and demand. Large markets are developing for commercial operators of private solar farms, utilities meeting green mandates, government subsidized installations, and operators of large commercial and industrial properties. These projects represent large installations typically approaching 1MW or more.

Solar systems installers looking to satisfy the module needs of these large and long term projects are looking for opportunities to secure access to modules supplies. We believe that the design and performance of our solar module is ideally suited for use in these project types, and we further believe that our module production capacities can be pre-sold well into the future.

### Target Market

Our primary target market for our TFPV solar modules will be applications for On-Grid (facilities tied to conventional power distribution infrastructure) application of 1MW in size and above. Typical applications and buyers would include:

Solar Farms
License Holders in Germany, Spain & Canada
US installers servicing commercial and utility scale installations
Government Agencies (DOD)
Bureau of Land Management
Department of Defense
Power Purchase Agreements
Renewable Ventures
Utility Companies
Meeting Green Mandates

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## Sales & Distribution

In anticipation of commercial production, we have developed a pre-sales reservation program, based upon the solar module manufacturing industry s policy of pre-selling manufacturing capacity to system installers and large users of solar. This is intended to aid in building a sales channel, loading that channel with customers interested in purchasing our future module production, and developing brand presence and recognition as early as possible. The program enables qualified, interested parties to specify the amount of solar module capacity they anticipate purchasing at favorable per watt pricing. As of the date of this report, we have signed reservation agreements with solar system integrators indicating interest in over 100 MW of production in calendar 2008, 2009, 2010. Our agreements provide for the payment of a 5% deposit based on the 2009 calendar year purchase commitment either prior to, or not later than, 30 days after the delivery by XsunX to the reserving party of commercial samples for evaluation. The information in this paragraph is designed to summarize the general terms of the pre-sales reservation program and market opportunities. It is not intended to provide guidance about our future operating results, including revenues or profitability.

# Plan of Operations

At present, we anticipate the majority of our product and operations development efforts for the period ending September 2008 and the foreseeable future thereafter, will focus on establishing and expanding facilities necessary to manufacture our TFPV solar modules for commercial sale. Areas of specific focus and capital expenditures include:

(a) Establishment of a baseline production system to produce full size (100cmx160cm) sample modules; and
(b) Lease and preparation of facilities necessary to house and operate, at minimum, our first of four proposed 25MW manufacturing lines; and
(c) The placement of orders with select vendors for the core and sub-system components necessary to begin assembly leading to the commissioning of the first of four planned 25MW manufacturing lines; and
(d) Continued R&D efforts to establish enhanced solar cell deposition methods and reduce manufacturing costs.

For the year ending September 30, 2008 the Company has developed a plan of operations requiring approximately $20,080,316 that commits 38% of its budget or $12,773,974 towards initial Manufacturing Equipment and Sub-systems, another 11% of its budget or $3,578,594 to General and Administrative functions as well as working capital needs, another 8% of its budget or $2,725,098 to facilities including lease payments and manufacturing lease hold improvements and another 3% of its budget or $1,002,649 to the development of new manufacturing devices, techniques and other research and development. The planned expenditures are consistent with our anticipated costs associated with the placement of equipment order deposits, ongoing progress payments, facility lease hold improvements for general office facilities and manufacturing sub-system infrastructure, and operations support for an approximate annual manufacturing capacity of 25MW.

The Company may change any or all of the budget categories in the execution of its business attempts. None of the items is to be considered fixed or unchangeable.

The Company will need additional capital to fund its budget. To support the completion of the our planned initial 25MW of manufacturing capacity, associated production start-up costs, establish a replication process designed to enable us to add the balance of our proposed 75MW of additional production capacity, and fund operations as we attempt to generate initial sales and revenues, we may seek to obtain additional financing of approximately $25,000,000 from equity and/or debt placements. To support these and future operational plans, we may elect to attempt to secure loans and/or grants offered by the State of Oregon where we intend to establish our manufacturing facilities. No representation is made that any funds will be available when needed or on terms that acceptable to the Company. In the event funds cannot be raised when needed, the Company may not be able to carry out its business plan, may never achieve sales or income, and could fail in business as a result of these uncertainties.



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Management believes the summary data and audit presented herein is a fair presentation of the Company s results of operations for the periods presented. Due to the Company s change in primary business focus and new business opportunities these historical results may not necessarily be indicative of results to be expected for any future period. As such, future results of the Company may differ significantly from previous periods.

# Results of Operations for the Three Fiscal Years Ended September 30, 2007 Compared to Fiscal Years Ended September 30, 2006 and 2005

## Revenue, Cost of Goods Sold:

The Company generated insignificant revenues in the period ended September 30, 2007 of $6,880. The Company generated revenue of $8,000 for the same period in 2006 and generated no revenue for the same period in 2005. There were no associated costs of goods sold.

## Operating Expenses:

The Company incurred expenses totaling $2,648,359 in fiscal year 2007 as compared to $3,380,087 in 2006 and $1,383,406 in 2005. The decrease of $731,728 was primarily driven by non-cash warrant expenses of $625,947 and loan fees of $628,834 incurred in 2006 that were not incurred in 2007. For the year 2006 as compared to 2005, the increase of $1,996,681 included a onetime non-cash warrant issuance expense of $951,250 for warrants issued in association with the licensure of technologies and the sale by the Company of convertible debentures, and a net increase of $486,833 in loan fee expenses associated with the sale by the Company of convertible dentures.

Excluding these non-cash items, there was an increase in normal and customary operating expense of $523,053 for the period ending September 30, 2007 as compared to the same period 2006. The primary drivers of this increased are discussed in detail below.

## Salaries and Wages:

The Company hired additional staff to implement its commercialization strategy in the fiscal year ended September 30, 2007. This increase in staffing resulted in a total expenditure of $828,711 which is an increase of $553,622 over the same period in 2006 and an increase of $119,853 from 2006 to the same period in 2005. The company expects this trend to continue.

## Research and Development:

The Company spent $435,534 in research and development activities during the fiscal year ended September 30, 2007. This represented a decrease of $513,938 as compared to the same period in 2006 and an increase of $448,049 for the year 2006 versus the same period in 2005. This illustrates the Company s ramp up of research and development expenditures during 2005 and 2006. As the Company began to focus on commercializing the technology, the related research and development expenditures declined in 2007.

## Professional Services:

Consulting services were $117,751, an increase of $69,901 for the fiscal year ended September 30, 2007 compared to the prior year. This increase was largely driven by the expansion of the Company s Scientific Advisory Board and increased contract engineering expenses related to the efforts to commercialization of the Company s product. The decrease expenditures for the year ending September 30, 2006 versus the same period in 2005 was $273,094 which resulted primarily from the replacement of outside consultants with employees.

Legal and Accounting fees increased $162,185 to $302,478 for the fiscal year ended September 30, 2007. This increase was primarily the result of legal work relating to the Company s attempted acquisition of manufacturing assets, and from enforcing the Company s contact rights with several vendors. Legal and accounting fees were relatively flat for the year ending September 30, 2006 as compared to the same period in 2005, an increase of $33,044.



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## Travel:

Travel and associated expenses were $158,503 for the fiscal year ended September 30, 2007. This represents an increase of $116,680 as compared to the same period in 2006 and an increase of $30,589 for fiscal year 2006 as compared to the same period in 2005. These increases are due to increased travel directed at sales and business development efforts.

## Other Operating Expenses:

Additionally, advertising expenses were $47,573 for the fiscal year 2007, an increase of $38,523 for the same period in 2006, an increase of $5,071 for the same period in 2005. This increase resulted from the Company s increased efforts to generate sales.

Insurance expenses were $66,856 for the fiscal year ended September 30, 2007, an increase of $64,151 from the prior period. This increase was primarily caused by increased coverage and the addition of a directors and officers insurance package. The increase of $1,947 between the fiscal years 2006 and 2005 was primarily driven by increase coverage levels.

For the fiscal year ended September 30, 2007, the Company s consolidated net loss was $(1,289,497) as compared to $(3,441,940) for the same period ended September 30, 2006 and $(1,400,839) for the same period ended September 30, 2005. The decreased net loss in 2007 was primarily related to i) $1,100,000 non-operating settlement of an asset purchase agreement which resulted in cash inflow and a non-operating income ii) a decreased operating expenses of $731,728 as discussed above, iii) increased interest income of $164,699 resulting for the loan to Sencera and iv) decreased interest expense with the conversion of outstanding debentures into equity in 2006. This resulted in a net loss per was of $(0.01) for the twelve months ended September 30, 2007.

The increase of $ 2,041,101 between the 2006 and 2005 periods resulted from a one time non-cash warrant issuance expense of $951,250 for warrant expenses accounted for in the period ended September 30, 2006, and a net increase of $486,833 in loan fee expenses associated with the sale by the Company of convertible dentures. Excluding the one time non-cash warrant expense and net loan fee expenses, in the comparative analysis between the periods, results in an increase of $578,017 in net loss for the period ended September 30, 2006 as compared to the same period 2005. The net loss per share was less than $(0.02) for the twelve month period ended September 30, 2006 and $(0.01) for the same period in 2005.

Due to the Company s change in primary business focus in October 2003 and the developing nature of its business opportunities these historical results may not necessarily be indicative of results to be expected for any future period. As such, future results of the Company may differ significantly from previous periods. Since inception in 1997 the Company has an accumulated deficit totaling ($10,460,850) at September 30, 2007.

## Liquidity and Capital Resources

Working Capital at September 30, 2007 was $1,515,437 as compared to $4,065,524 for the same period in 2006 and as compared to a working capital (deficit) of $(718,380) at September 30, 2005. There were insignificant operating cash flows totaling $6,880 during the twelve months ended September 30, 2007 and $8,000 in the same period in 2006 and zero in the same period in 2005.

Cash and cash equivalents at September 30, 2007 were $1,828,125 a decrease of $(2,826,098) from the same period in 2006. Cash and cash equivalents at September 30, 2006 were $4,654,223, an increase of $4,398,370 from September 30, 2005.

During the year ended, September 30, 2007, the Company used $1,289,497 net cash in operating activities as compared to $1,942,278 net cash in operating activities for the year ending September 30, 2006 and compared to using $1,049,650 net cash for the year ended, September 30, 2005.

The Company used $843,416 for operating activities during the year ended September 30, 2007 as compared to $1,942,278 for the same period in 2006. The decrease of $1,098,862 resulted primarily from a reduced net loss of $2,152,443 offset by warrant expense and issuance of common stock for interest of $867,330, change in pre-paid expenses of $563,871 and to accounts payable of $826.293.



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The increase of $892,628 in use of cash for operating activities between the 2006 and 2005 periods resulted from onetime non-cash expenses for a warrant issuance expense of $951,250, an expense of $31,500 for the issuance of stock in lieu of cash for services, and $241,383 in expenses for the issuance of stock in lieu of cash for the payment of accrued interest associated with the sale of debentures by the Company accounted for in the period ended September 30, 2006. Excluding these one time non-cash expenses, in the comparative analysis between the period s, results in a decrease of $331,505 in net cash used in operations for the period ended September 30, 2006 compared to the same period 2005.This decrease of net cash used in operations was primarily due to a decrease in consulting expenses of $273,094 in the 2006 period.

For the twelve months ended, September 30, 2007, the Company s capital needs have primarily been met from the proceeds of (i) the issuance of Common Stock for Debenture conversion and; (ii) the issuance of Common Stock for warrant conversion. Total cash provided by financing activities for the period ended September 30, 2007 decreased to $135,000. For the period ended September 30, 2006 total cash provided by financing activity increased to $8,171,250 from $1,380,170 for the same period ended September 30, 2005. The decrease of $8,036,250 is a result of financing activity in fiscal year 2006 that was not required to execute on the business plan in 20007. Additionally, $135,000 was received by the Company for 900,000 warrants that were exercised by a consultant. The increase of $6,791,080 between the 2006 and 2005 periods was mainly attributable to an increase of $5,000,000 from the conversion of a debenture into common stock and $3,171,250 in the conversion of warrants for common stock.

On November 1, 2007, XsunX signed a $21 million common stock purchase agreement with Fusion Capital Fund II, LLC, an Illinois limited liability Company. Upon signing the agreement, XsunX received $1,000,000 from Fusion Capital as an initial purchase under the $21 million commitment in exchange for 3,333,332 shares of our common stock. The shares were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. Concurrently with entering into the common stock purchase agreement, we entered into a registration rights agreement with Fusion Capital. Under the registration rights agreement, we agreed to file a registration statement related to the transaction with the SEC covering the shares that have been issued or may be issued to Fusion Capital under the common stock purchase agreement. After the SEC has declared effective the registration statement related to the transaction we have the right over a 25-month period to sell our shares of common stock to Fusion Capital, from time to time, in amounts up to $1 million per sale, depending on certain conditions as set forth in the agreement, up to the full aggregate commitment of $21 million.

The purchase price of the shares related to the $20 million balance of future funding will be based on the prevailing market prices of the Company s shares at the time of sales without any fixed discount, and the Company will control the timing and amount of any sale of shares to Fusion Capital. There are no upper limits to the price Fusion Capital may pay to purchase our common stock. However, Fusion Capital shall not be obligated to purchase any shares of our common stock on any business day that the price of our common stock is below $0.20. There are no negative covenants, restrictions on future funding(s), penalties or liquidated damages in the agreement. The common stock purchase agreement may be terminated by us at any time at our discretion without any cost to us.

In consideration for entering into the $21 million agreement we agreed to issue to Fusion Capital 3,500,000 shares of our common stock as financing commitment shares which Fusion Capital has agreed to hold for the term of the common stock purchase agreement. Additionally, under the stock purchase agreement we granted Fusion Capital common stock purchase warrants to purchase 1,666,666 shares of our common stock at $0.50, and 1,666,666 shares of our common stock at $0.75. The shares underlying the warrant grants do not carry mandatory registration requirements under the terms of the common stock purchase agreement and registration rights agreement.

The proceeds received by the Company under the common stock purchase agreement are expected to be used to build an initial base production system delivering full size commercial quality solar modules, and initiate the manufacture of the first of four (4) planned 25 megawatt systems under the Company s planned 100 megawatt thin film solar module production facility. Proceeds may also be used to lease and prepare manufacturing facilities with the necessary support systems for the manufacturing line, inventory, staff, and general working capital.



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Contractual Obligations are shown in the following table.

| Contractual Obligations | Payments Due by Period | | | | |
|---|---|---|---|---|---|
| | Total | Less Than 1 Year | 1 3 Years | 3 5 Years | More Than 5 Years |
| Long Term Obligations | | | | | |
| Capital Lease | | | | | |
| Operating Lease(1) | 37,118 | 21,008 | 16,110 | | |
| Purchase Obligations(2)(3) | 492,345 | 492,345 | | | |

| | | | |
|---|---|---|---|
| Other Long Term Liabilities Reflected on the Registrant s Balance Sheet Under GAAP | | | |
| Total | 529,463 | 513,353 | 16,110 |

(1) Operating Lease Obligations consist of the lease on the Company s Administrative and Sales facility in Golden, CO.

(2) Remaining accounts payable associated with the production a roll to roll cassette cluster tool providing plasma enhanced chemical vapor deposition (PECVD) and sputtering system of $353,000.

(3) Estimated remaining amount due a third party research and development provider of $139,345.

The estimated contract cost in item (2) and (3) above may be higher or lower based on final costs. The Company has not booked any contingency for cost overruns.

During the year ended, September 30, 2007, we used $1,822,942 for investing activities as compared to $2,099,736 for the same period ended September 30, 2006. This represents a decrease of $276,794 primarily related to the purchase of fewer fixed assets in 2007 than in the previous year and the purchase of the marketable manufacturing tool in 2006 which reduced 2007 expenditures. This difference was offset by the investment of $1,500,000 and associated accrued interest income in the Sencera Note. During the year ended, September 30, 2006, we used $2,099,736 for investing activities as compared to $191,995, for the year ended, September 30, 2005. The increased use of cash for investing activities resulted from an increase in the acquisition of assets in the form of a marketable manufacturing tool and additional equipment.

We had, at September 30, 2007, working capital of $1,515,437. The Company has announced plans to build its manufacturing facility which we anticipate will lead to revenue after the close of fiscal year 2008. However the cash flow requirements associated with the transition to revenue recognition may exceed cash generated from operations in the current and future periods. We may seek to obtain additional financing from equity and/or debt placements. We have been able to raise capital in a series of equity and debt offerings in the past. While there can be no assurances that we will be able to obtain such additional financing, on terms acceptable to us and at the times required, or at all, we believe that sufficient capital can be raised in the foreseeable future if necessary.

## Net Operating Loss

For federal income tax purposes, we have net operating loss carry forwards of approximately $10,960,721 as of September 30, 2007. These carry forwards will begin to expire in 2010. The use of such net operating loss carry forwards to be offset against future taxable income, if achieved, may be subject to specified annual limitations.



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## Quantitative and Qualitative Discolsures About Market Risk

The Company maintains interest bearing deposits in the form of U.S. Treasury Notes in various amounts and maturity periods that allow us to maintain access to necessary capital to fund operations. These investments in Treasury Notes earn varied interest rates and upon maturity are subject to market risks associated with the increase or decrease for the then available rates comparative to the expiring rates. These investments in U.S Treasury Notes are underwritten by the United States Government and are brokered through our association with a U.S. based and Federally insured bank. We do not believe that these investments are subject to foreign currency risks.

Our products are quoted for sale and licensure in United States dollars and as our business development efforts progress we anticipate the sale and/or licensure of our products to foreign entities. To the extent that we may be exposed to foreign currency risks related to the rise and/or fall of foreign currencies against the U.S. dollar we will report in United States dollars.

# DESCRIPTION OF PROPERTY

As of January 17, 2008, the Company leases administrative office facilities located at 65 Enterprise, Aliso Viejo CA 92656 for approximately $3,800 per month.

In April 2006 the Company entered into a three year lease for technical and marketing operations facilities in Golden, CO. The Company provided a $2,615 security deposit and expensed $79,867 in costs associated with tenant improvements to the facilities in preparation for occupancy. The following is a schedule, by years, of the minimum base payments required under this operating lease for facilities. An additional $905 monthly is also due as a pro rata share equaling 4.12% of the operating costs for real estate taxes, assessments, and the expenses of operating and maintaining common areas within the commercial grounds surrounding the leased facilities.

| Annual Rent Schedule | | Annualized Rate/sf | Monthly Rent | Rent |
|---|---|---|---|---|
| 7/1/06 | 6/30/07 | $ 6.75 | $ 20,250.00 | $ 1,687.50 |
| 7/1/07 | 6/30/08 | $ 6.95 | $ 20,850.00 | $ 1,737.50 |
| 7/1/08 | 6/30/09 | $ 7.16 | $ 21,480.00 | $ 1,790.00 |

The Company owns no real property.

To support the Company s plans to prepare TFPV solar module manufacturing capabilities, we plan to lease suitable facilities of approximately 60,000 to 75,000 square feet in the 2008 fiscal year. We have selected the area surrounding the Portland, Oregon area as the location of our facilities and we are working to complete site selection and lease negotiations.

# CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

No officer or director of the Company has or proposes to have any direct or indirect material interest in any asset proposed to be acquired by the Company through security holdings, contracts, options, or otherwise.

The Company has adopted a policy under which any consulting or finder s fee that may be paid to a third party for consulting services to assist management in evaluating a prospective business opportunity would be paid in stock, stock purchase options or in cash. Any such issuance of stock or stock purchase options would be made on an ad hoc basis. Accordingly, the Company is unable to predict whether or in what amount such a stock issuance might be made.



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# MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

The Company s common stock trades on the OTC Bulletin Board under the symbol XSNX. The range of high, low and close trade quotations for the Company s common stock by fiscal quarter within the last two fiscal years, as reported by the National Quotation Bureau Incorporated, was as follows:

| Year Ended September 30, 2007 | High | Low | Close |
|---|---|---|---|
| First Quarter ended December 31, 2006 | 0.68 | 0.34 | 0.38 |
| Second Quarter ended March 31, 2007 | 0.64 | 0.40 | 0.49 |
| Third Quarter ended June 30, 2007 | 0.51 | 0.41 | 0.42 |
| Fourth Quarter ended September 30, 2007 | 0.44 | 0.30 | 0.39 |
| | | | |
| Year Ended September 30, 2006 | | | |
| First Quarter ended December 31, 2005 | 0.59 | 0.53 | 0.58 |
| Second Quarter ended March 31, 2006 | 2.24 | 2.08 | 2.13 |
| Third Quarter ended June 30, 2006 | 1.06 | 1.04 | 1.05 |
| Fourth Quarter ended September 30, 2006 | 0.55 | 0.52 | 0.54 |

The above quotations reflect inter-dealer prices, without retail mark-up, mark-down, or commission and may not necessarily represent actual transactions.

## Number of Holders

As of January 16, 2008, there were approximately 1,456 record holders of the Company s common stock, not counting shares held in street name in brokerage accounts which is unknown. As of January 16, 2008, there were approximately 173,402,188 shares of common stock outstanding on record with the Company s stock transfer agent, Mountain Share Transfer. On January 16, 2008 the last reported sales price of our common stock on the OTCBB was $.48 per share.

## Dividends

The Company has not declared or paid any cash dividends on its common stock and does not anticipate paying dividends for the foreseeable future.

## Stock Option Plan

On January 5, 2007, the Board of Directors of XsunX resolved to establish the Company s 2007 Stock Option Plan to enable the Company to obtain and retain the services of the types of employees, consultants and directors who could contribute to the Company s long range success and to provide incentives which are linked directly to increases in share value which will inure to the benefit of all stockholders of the Company. A total of 20,000,000 shares of common stock are authorized under the plan.

## Stock Compensation, Issuance of Stock Purchase Options

During the fiscal year ended September 30, 2007, the board of directors authorized the grant of options to purchase an aggregate of 2,200,000 shares of the Company s common stock of which 1,950,000 remain authorized. The options are exercisable at prices ranging from $.41 to $.53 per share, and expire at various times through August 2012.

Consulting Incentive Options: In connection with entering into a Consulting and Advisory Agreement effective January 26, 2007 with Dr. John Moore for two years service as Chairman of the Company s Scientific Advisory Board, the Company issued to Dr. Moore 150,000 options under the terms of a Stock Option Agreement, with an exercise price of $.46 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 12,500 shares upon the First Vesting Date of April 26, 2007. Thereafter, the Option shall vest become exercisable at the rate of 18,750 Shares per calendar quarter, or any apportioned amount thereof, during the term of engagement of the Optionee by XsunX.

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Employment Incentive Options In connection with entering into an Employment Agreement effective January 1, 2007 with Jeff Huitt for two years service as Chief Financial Officer, the Company issued to Mr. Huitt 500,000 options under the terms of a Stock Option Agreement effective January 26, 2007, with an exercise price of $.46 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 50,000 shares upon the First Vesting Date of April 1, 2007. Thereafter, the Option shall vest and become exercisable at the rate of 50,000 Shares per calendar quarter up to a total of 400,000 shares.

(b) This Option shall also become exercisable in the amount of 50,000 shares for each of the first two sales/licensure of an XsunX system.

Employment Incentive Options In connection with entering into an Employment Agreement effective January 1, 2007 with Robert Wendt for two years service as Vice President of Engineering, the Company issued to Mr. Wendt 500,000 options under the terms of a Stock Option Agreement effective January 26, 2007, with an exercise price of $.46 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 50,000 shares upon the First Vesting Date of April 1, 2007. Thereafter, the Option shall vest and become exercisable at the rate of 50,000 Shares per calendar quarter up to a total of 400,000 shares.

(b) This Option shall also become exercisable in the amount of 50,000 shares for each of the first two sales/licensure of an XsunX system.

Employment Incentive Options In connection with entering into an Employment Agreement effective January 1, 2007 with Kurt Laetz for two years service as Vice President of Sales, the Company issued to Mr. Laetz 250,000 options under the terms of a Stock Option Agreement effective January 26, 2007, with an exercise price of $.46 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. As of September 30, 2007 Mr. Laetz no longer worked for the Company and the above referenced option grant was terminated and the available options were returned to the pool of available options under the XsunX 2007 Stock Option Plan.

Employment Incentive Options In connection with entering into an Employment Agreement effective January 1, 2007 with Joseph Grimes for two years service as Chief Operating Officer, the Company issued to Mr. Grimes 500,000 options under the terms of a Stock Option Agreement effective January 26, 2007, with an exercise price of $.46 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 50,000 shares upon the First Vesting Date of April 1, 2007. Thereafter, the Option shall vest and become exercisable at the rate of 50,000 Shares per calendar quarter up to a total of 400,000 shares.

(b) This Option shall also become exercisable in the amount of 50,000 shares for each of the first two sales/licensure of an XsunX system.

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Consulting Incentive Options: In conjunction with entering into a Consulting and Advisory Agreement effective February 22, 2007 with Dr. Edward Yu for two years service as a member of the Company s Scientific Advisory Board, the Company issued to Dr. Yu 100,000 options under the terms of a Stock Option Agreement, with an exercise price of $.53 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 12,500 shares upon the First Vesting Date of May 23, 2007. Thereafter, the Option shall vest become exercisable at the rate of 12,500 Shares per calendar quarter, or any apportioned amount thereof, during the term of engagement of the Optionee by XsunX.

Consulting Incentive Options: In conjunction with entering into a Consulting and Advisory Agreement effective April 23, 2007 with Dr. Richard Ahrenkiel for two years service as a member of the Company s Scientific Advisory Board, the Company issued to Dr. Yu 100,000 options under the terms of a Stock Option Agreement, with an exercise price of $.45 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 12,500 shares upon the First Vesting Date of July 24, 2007. Thereafter, the Option shall vest become exercisable at the rate of 12,500 Shares per calendar quarter, or any apportioned amount thereof, during the term of engagement of the Optionee by XsunX.

Consulting Incentive Options: In conjunction with entering into a Consulting and Advisory Agreement effective August 28, 2007 with Dr. Michael Russak for two years service as a member of the Company s Scientific Advisory Board, the Company issued to Dr. Russak 100,000 options under the terms of a Stock Option Agreement, with an exercise price of $.41 per share. The options were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The options have a 5 year exercise term and vest under the following provisions:

(a) The Option became exercisable in the amount of 12,500 shares upon the First Vesting Date of November 29, 2007. Thereafter, the Option shall vest become exercisable at the rate of 12,500 Shares per calendar quarter, or any apportioned amount thereof, during the term of engagement of the Optionee by XsunX.

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# Table of Equity Compensation

The following table sets forth summary information, as of September 30, 2007, concerning securities authorized for issuance under all equity compensation plans and agreements for the fiscal yeas ended September 30, 2005, 2006 and 2007 is as follows:

| | Number of Options/ Warrants | Weighted-Average Exercise Price | Accrued Options/ Warrants Exercisable | Weighted-Average Exercise Price |
|---|---|---|---|---|
| Outstanding, September 30, 2004 | 8,000,000 | $ 0.15 | 5,500,000 | $ 0.15 |
| Granted 2005 | 7,125,000 | $ 0.17 | 6,708,334 | $ 0.17 |
| Exercisable from 2004 in 2005 | | | 1,200,000 | 0.15 |
| Outstanding, September 30, 2005 | 15,125,000 | $ 0.16 | 13,408,334 | $ 0.16 |

| | | | | |
|---|---|---|---|---|
| Granted 2006 | 11,987,000 | $ 0.36 | 5,543,000 | $ 0.46 |
| Exercised 2006 | (4,375,000 ) | $ 0.48 | (4,375,000 ) | $ 0.48 |
| Exercised from 2004 in 2006 | (100,000 ) | $ 0.15 | (100,000 ) | $ 0.15 |
| Exercised from 2005 in 2006 | (6,375,000 ) | $ 0.17 | (6,375,000 ) | $ 0.17 |
| Exercisable from 2004 in 2006 | | | 300,000 | $ 0.15 |
| Exercisable from 2005 in 2006 | | | 300,000 | $ 0.20 |
| Outstanding, September 30, 2006 | 16,262,000 | | 8,701,334 | |
| Granted 2007 | 1,950,000 | $ 0.46 | 554,167 | $ 0.46 |
| Exercised 2007 | | | | |
| Exercised from 2004 in 2007 | (900,000 ) | $ 0.15 | (900,000 ) | $ 0.15 |
| Exercised from 2005 in 2007 | | | | |
| Exercised from 2006 in 2007 | | | | |
| Exercisable from 2004 in 2007 | | | | |
| Exercisable from 2005 in 2007 | | | 116,666 | $ 0.20 |
| Exercisable from 2006 in 2007 | | | 296,000 | $ 0.51 |
| Outstanding, September 30, 2007 | 17,312,000 | $ 0.33 | 8,768,167 | $ 0.22 |

At September 30, 2007, the range of warrant/option prices for shares under warrants/options not exercised and the weighted-average remaining contractual life is as follows:

| | Options/Warrants Outstanding | | | Options/Warrants Exercisable | |
|---|---|---|---|---|---|
| Range of Option/ Warrant Prices | Number of Options/ Warrants | Weighted-Average Exercise Price | Weighted-Average Remaining Contractual Life(yr) | Number of Options/ Warrants | Weighted-Average Exercise Price |
| $ 0.15 | 7,000,000 | $ 0.15 | 1.9 | 6,000,000 | $ 0.15 |
| $ 0.20 | 750,000 | $ 0.20 | 0.3 | 750,000 | $ 0.20 |
| $ 0.25 | 7,000,000 | $ 0.25 | 3.0 | 1,000,000 | $ 0.25 |
| $ 0.41 | 100,000 | $ 0.41 | 4.9 | 4,167 | $ 0.41 |
| $ 0.45 | 100,000 | $ 0.45 | 4.6 | 20,833 | $ 0.45 |
| $ 0.46 | 1,650,000 | $ 0.46 | 4.3 | 500,000 | $ 0.46 |
| $ 0.51 | 500,000 | $ 0.51 | 3.8 | 352,000 | $ 0.51 |
| $ 0.53 | 100,000 | $ 0.53 | 4.4 | 29,167 | $ 0.53 |
| $ 1.69 | 112,000 | $ 1.69 | 3.5 | 112,000 | $ 1.69 |
| | 17,312,000 | | | 8,768,167 | |



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# Sales or Transactions of Securities

The authorized capital stock of the Company was established at 500,000,000 shares with no par value.

In the fiscal year ended September 30, 2005, the Company issued a total of 9,818,631 shares of common stock as follows: 6,735,137 shares of common stock were issued pursuant to Regulation S promulgated under the Securities Act, raising gross proceeds of $531,396; 474,231 shares of common stock were issued in transactions exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, for consulting services valued at $40,000; and 2,609,263 shares of common stock were issued pursuant to an exemption under Section 4(2) of the Act, in connection with the sale of an $850,000 secured convertible debenture by the Company.

In the fiscal year ended September 30, 2006, the Company issued a total of 33,293,217 shares of common stock as follows: 33,120,851 shares of common stock registered pursuant to an effective registration statement were issued pursuant to the conversion of secured convertible debentures, raising gross proceeds of $9,294,133; 72,366 shares of common stock were issued in transactions exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, for consulting services valued at $31,500; and 100,000 shares of common stock were issued pursuant to an exemption under Section 4(2) of the Act, in connection with the exercise of 100,000 warrants bearing an exercise price of $.15 each.

## The following represents a detailed analysis of the 2007 capital stock transactions.

In December 2006, the Company entered into a settlement agreement with a service provider in which the service provider returned to the Company 150,000 of the 300,000 shares of common stock issued to the service provider in the period ended March 31, 2005. The shares were originally issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The returned shares were received and cancelled effective January 2007. As a result of the return and cancellation of these shares, the Company recorded a credit to expenses in the amount of $12,000 and a debit to paid in capital of $12,000 for the period ending March 31, 2007.The $12,000 represents one half of the monetary value expensed by the Company in the period in which the shares were issued.

In conjunction with the sale of convertible debentures in the amount of $850,000 and $5,000,000 in the fiscal periods ended December 31, 2005 and 2006 respectively, the Company issued and deposited into escrow 26,798,418 shares of common stock as part of a security structure for the above referenced obligations. As of September 30, 2006 the principal balance of the debentures had been reduced to $0.0. Subsequently the holder of the debentures provided the Company with a notice of release of its security interests and returned the security shares to the Company for cancellation. On January 18, 2007 the above shares were cancelled on the Company s books.

Warrant Conversion In September 2007, a consultant exercised the remaining 900,000 of the 1,000,000 $.15 cent warrants granted to the consultant in September 2004. The amount of $135,000 dollars was paid to XsunX by the consultant and 900,000 shares of unregistered common stock were issued. The shares were issued in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933.

## Use of Proceeds from the Sale of Securities

The proceeds from the above sales of securities were used primarily to fund the product developments efforts and day-to-day operations of the Company and to pay the accrued liabilities associated with these operations.



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# EXECUTIVE COMPENSATION

## Director Compensation

In the fiscal period ended September 30, 2007 Directors received no cash compensation for their service to the Company as directors, but were reimbursed for expenses actually incurred in connection with attending meetings of the Board of Directors.

# Summary Compensation Table of Directors

| Name | Annual Retainer Fees ($) | Meeting Fees ($) | Consulting Fees/Other Fees ($) | Number of Shares (#) | Number of Securities Underlying Options SARS (#) |
|---|---|---|---|---|---|
| Director, Tom Djokovich | $ 0 | $ 0 | $ 0 | 0 | 0 |
| Director, Thomas Anderson | $ 0 | $ 0 | $ 0 | 0 | 0 |

## Executive Officer Compensation

The annual compensation for the executive officers of the Company for the post reorganization operations has not yet been determined, but is expected to be established by a resolution of the Company s Board of Directors in the future.

The following table and notes set forth the annual cash compensation paid to officers of the Company.

| Name & Principal Position | Fiscal Year | Annual Salary ($) | Annual Bonus ($) | Awards Other Annual Compensation ($) | Restricted Stock Award(s) ($) | Securities Underlying Options/SARS (#) |
|---|---|---|---|---|---|---|
| | 2007 | $ 150,000 | 0 | 0 | 0 | 0 |
| Tom Djokovich, President(1) | 2006 | $ 150,000 | 0 | 0 | 0 | 0 |
| | 2005 | $ 150,000 | 0 | 0 | 0 | 0 |
| | 2007 | $ 150,000 | 0 | 0 | 0 | 500,000 |
| Joseph Grimes, COO(2) | 2006 | $ 150,000 | 0 | 0 | 0 | 612,000 |
| | 2005 | $ 0 | 0 | 0 | 0 | 0 |
| | 2007 | $ 135,000 | 0 | 0 | 0 | 500,000 |
| Jeff Huitt, CFO(3) | 2006 | $ 0 | 0 | 0 | 0 | 0 |
| | 2005 | $ 0 | 0 | 0 | 0 | 0 |

(1) In the fiscal period ended September 30, 2007, the Company agreed to pay Mr. Djokovich an annual salary of $150,000 for services provided as Chief Executive Officer up to and until the Company determines executive compensation pursuant to an employment agreement as determined by the Board. In addition to Mr. Djokovich s base compensation the Company also provides Mr. Djokovich with a $400 monthly health insurance allowance. Effective November 2007 the Company agreed to increase Mr. Djokovich annual salary to $220,000. When necessitated by the Company s adverse financial condition Mr. Djokovich has agreed to the deferment of his monthly salary up to and until such time that the Company can repay any such deferred amounts.

(2) The Company has agreed to pay Mr. Grimes an annual salary of $150,000 for services provided as Chief Operating Officer under the terms of an employment agreement effective January 1, 2007. In addition to Mr. Grimes base compensation the Company also provides Mr. Grimes with a $400 monthly health insurance allowance. Effective November 2007, the Company agreed to increase Mr. Grimes annual salary to $210,000.

(3) The Company has agreed to pay Mr. Huitt an annual salary of $135,000 for services provided as Chief Financial Officer under the terms of an employment agreement effective January 1, 2007. In addition to Mr. Huitts base compensation the Company also provides Mr. Huitt with a $400 monthly health insurance allowance. Effective November 2007, the Company agreed to increase Mr. Huitt s annual salary to $155,000.

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## Option/SAR Grants Table

(None)

## Aggregated Option/SAR Exercises in Last Fiscal Year an FY-End Option/SAR value

(None)

## Long Term Incentive Plans Awards in Last Fiscal Year

The following table and notes set forth the incentive awards provided to officers of the Company in 2007 fiscal period.

| | Date Issued | Number Issued | Exercise Price | Expiration Date | Consideration |
|---|---|---|---|---|---|
| Joseph Grimes(1) | 5-Apr-06 | 112,000 | $ 1.69 | 5-Apr-11 | As part of an employment incentive agreement |
| Joseph Grimes(2) | 20-Jul-06 | 500,000 | $ 0.51 | 20-Jul-11 | As part of an employment incentive agreement |
| Joseph Grimes(3) | 26-Jan-07 | 500,000 | $ 0.46 | 26-Jan-12 | As part of an employment incentive agreement |
| Jeff Huitt(4) | 26-Jan-07 | 500,000 | $ 0.46 | 26-Jan-12 | As part of an employment incentive agreement |

(1) Employment Incentive Options In connection with the issuance of an employment agreement to Joseph Grimes in April 2006, the Company granted 500,000 options at the then market price of $1.69. On July 20, 2006 the Company and Mr. Grimes mutually agreed to the cancellation of the remaining 388,000 unvested balance of this option.

(2) Employment Incentive Options In connection with the issuance of an employment agreement to Joseph Grimes in April 2006, the Company granted 500,000 options on July 20, 2006 at the then market price of $0.51. The warrant vested at the rate of 28,000 shares per month up to and through the first nine months of employment, 100,000 shares became exercisable upon delivery of a marketing plan by Mr. Grimes to the Board of Directors, 148,000 shares will become exercisable upon the first sale or licensure of an XsunX technology under the marketing plan.

(3) Employment Incentive Options In connection with the issuance of an employment agreement to Joseph Grimes in January 2007, the Company granted 500,000 options effective January 1 at the then market price of $0.46. The option began vesting at the rate of 50,000 shares per calendar quarter up to a total of 400,000 shares. Another 50,000 shall vest and become exercisable upon each of the first two sales/licensure of an XsunX system.

(4) Employment Incentive Option In connection with the issuance of an employment agreement to Jeff Huitt in January 2007, the Company granted 500,000 options effective January 1 at the then market price of $0.46. The option began vesting at the rate of 50,000 shares per calendar quarter up to a total of 400,000 shares. Another 50,000 shall vest and become exercisable upon each of the first two sales/licensure of an XsunX system.

No other compensation not described above was paid or distributed during the last fiscal year to the executive officers of the Company. There are no compensatory plans or arrangements, with respect to any executive office of the Company, which result or will result from the resignation, retirement or any other termination of such individual s employment with the Company or from a change in control of the Company or a change in the individual s responsibilities following a change in control.

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# CHANGES IN AND DISAGREEMENTS WITH ACCOUNTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

# AVAILABLE INFORMATION

We have filed a Registration Statement on Form S-1 under the Securities Act the SEC with respect to the shares of our Common Stock offered through this Prospectus. This Prospectus is filed as a part of that Registration Statement and does not contain all of the information contained in the registration statement and exhibits. We refer you to our registration statement and each exhibit attached to it for a more complete description of matters involving us, and the statements we have made in this Prospectus are qualified in their entirety by reference to these additional materials. You may inspect the registration statement and exhibits and schedules filed with the SEC at the SEC s principal office in Washington, D.C. Copies of all or any part of the registration statement may be obtained from the Public Reference Section of the SEC, Room 1580, 100 F Street NE, Washington DC 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference rooms. The SEC also maintains a web site at http://www.sec.gov that contains reports, proxy statements and information regarding registrants that file electronically with the SEC. In addition, we will file electronic versions of our annual and quarterly reports on the SEC s Electronic Data Gathering Analysis and Retrieval, or EDGAR System.

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# FINANCIAL STATEMENTS XSUNX, INC. (A Development Stage Company) FINANCIAL STATEMENTS September 30, 2007, 2006 and 2005

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***JASPERS + HALL, PC***
***CERTIFIED PUBLIC ACCOUNTANTS***

**9175 E. Kenyon Avenue, Suite 100**
**Denver, CO 80237**
**303-796-0099**

# REPORT OF REGISTERED INDEPENDENT PUBLIC ACCOUNTING FIRM

Board of Directors
XSUNX, INC.
Aliso Viejo, CA

We have audited the accompanying balance sheets of XSUNX, Inc., (formerly Sun River Mining, Inc). (A Development Stage Company) as of September 30, 2005, 2006, and 2007, and the related statements of operations, cash flows, and stockholders equity for the years then ended. These financial statements are the responsibility of the Company s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of XSUNX, INC., (formerly Sun River Mining, Inc.) at September 30, 2005, 2006, and 2007 and the results of their operations and their cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States.

The financial statements for the period February 25, 1997 (inception) to September 30, 2004, were audited by other accountants, whose report dated May 5, 2005 expressed an unqualified opinion on those statements. They have not performed any auditing procedures since that date.

Denver, CO
December 28, 2007

/s/ Jaspers + Hall, PC

Jaspers + Hall, PC
Denver, Colorado
December 28, 2007



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# XSUNX, INC.
# (A Development Stage Company)
# BALANCE SHEETS

| | September 30, 2007 (Audited) | September 30, 2006 (Audited) | September 30, 2005 (Audited) |
|---|---|---|---|
| ASSETS: | | | |
| Current assets: | | | |
| Cash | $1,773,748 | $4,305,105 | $175,869 |
| Prepaid Expenses | 54,377 | 349,118 | 79,984 |
| Total current assets | 1,828,125 | 4,654,223 | 255,853 |
| Fixed assets: | | | |
| Office & Misc. Equipment | 39,437 | 9,774 | 2,270 |
| Research and Development Equipment | 532,795 | 392,301 | 181,995 |
| Leasehold Improvement | 89,825 | 80,492 | |
| Total Fixed Assets | 662,057 | 482,567 | 184,265 |
| Less Depreciation | (162,189) | (84,941) | (18,434) |
| Total fixed assets | 499,868 | 397,626 | 165,831 |
| Other assets: | | | |
| Patents/Trade Marks | | 40,000 | 20,000 |
| Security Deposit | 5,815 | 2,615 | |
| Accrued Interest Receivable | 143,452 | | |
| Note Receivable | 1,500,000 | | |
| Marketable Prototype | 1,765,000 | 1,765,000 | |
| Total other assets | 3,414,267 | 1,807,615 | 20,000 |
| Total Assets | $5,742,260 | $6,859,464 | $441,684 |
| LIABILITIES AND STOCKHOLDERS EQUITY: | | | |
| Current Liabilities: | | | |
| Accounts Payable | $259,652 | $582,161 | $78,377 |
| Accrued Expenses | 53,036 | 6,538 | 45,856 |
| Current Portion of Note Payable | | | 850,000 |
| Total current liabilities | 312,688 | 588,699 | 974,233 |
| Stockholders Equity: | | | |
| Preferred Stock, par value $0.01 per share; 50,000,000 shares authorized; no shares issued and outstanding | | | |
| Treasury Stock, no par value; no shares where issued or outstanding Common Stock, no par value; 500,000,000 shares authorized; 157,919,856 shares issued and outstanding at September 30, 2007 and 157,019,856 shares were issued and outstanding at September 30, 2006 | 13,563,869 | 13,290,869 | 3,996,735 |
| Paid in Capital Common Stock Warrants | 2,326,553 | 2,151,250 | 1,200,000 |
| Deficit accumulated during the development stage | (10,460,850) | (9,171,354) | (5,729,284) |
| Total stockholders profit (deficit) | 5,429,572 | 6,270,765 | (532,549) |
| Total Liabilities and Stockholders Equity | $5,742,260 | $6,859,464 | $441,684 |

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# XSUNX, INC.
# (A Development Stage Company)
# STATEMENT OF OPERATIONS
# (Audited)

| | Years Ended September 30th | | | Feb. 25, 1997 (Inception) to September 30, 2007 |
|---|---|---|---|---|
| | 2007 | 2006 | 2005 | |
| Revenue | | | | |
| Service Income | $ 6,880 | $ 8,000 | | $ 14,880 |
| Other Income | | | | |
| Total Revenue | 6,880 | 8,000 | | 14,880 |
| Expenses: | | | | |
| Advertising | 47,573 | 9,050 | 3,979 | 60,602 |
| Bank Charges | 973 | 294 | 500 | 3,880 |
| Conferences & Seminars | 14,725 | 11,267 | | 25,992 |
| Consulting | 117,751 | 47,850 | 320,944 | 1,510,584 |
| Depreciation | 77,248 | 82,941 | 18,435 | 181,802 |
| Directors Fees | | | | 11,983 |
| Due Diligence | | | | 45,832 |
| Equipment Rental | | | | 1,733 |
| Filing Fees | | | | |