

XSUNX INC
Form S-1/A
March 21, 2008

As filed with the Securities and Exchange Commission on March 20, 2008

File No. 333-148762

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

AMENDMENT NO. 2

TO

**FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

XSUNX, INC.

(Exact Name of Issuer in Its Charter)

Colorado
(State of Incorporation)

3081
(Primary Standard Classification
Code)

84-1384159
(IRS Employer ID No.)

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.

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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.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting Company.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to Be Registered⁽¹⁾	Proposed Maximum Offering Price Per Share⁽¹⁾⁽²⁾	Proposed Maximum Aggregate Offering Price⁽²⁾	Amount of Registration Fee⁽³⁾
Common Stock, no par value per share	48,650,000	\$ 0.48	\$ 23,352,000	\$ 917.73
Total:	48,650,000	\$ 0.48	\$ 23,352,000	\$ 917.73

(1) The shares of our Common Stock being registered hereunder are being registered for sale by the selling stockholders named in the Prospectus.

(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 \$0.48 on the Over-the Counter Bulletin Board on February 20, 2008.

(3) This fee has previously been paid.

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.

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.

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 stockholders. The prices at which the selling stockholders 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, as amended and quoted on the Over-the-Counter Bulletin Board under the symbol "XSNX". On February 20, 2008, the last reported sale price for our common stock as reported on the Over-the-Counter Bulletin Board was \$0.48 per share.

Investing in our 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. Cumorah Capital may be deemed to be an "underwriter" within the meaning of the Securities Act of 1933, as amended.

Neither the U.S. 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 development stage company with no significant sources of revenue to date. We are 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 process 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.

Currently, we do not have a manufacturing facility. 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, we anticipate completing the assembly and installation of a small scale production research and development system and initiating construction of our first full scale 25 MW system in 2008. Barring assembly delays, we anticipate completing the assembly of and commissioning our first 25MW line between December 2008 and February 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 by early 2010.

The Offering

On November 1, 2007, we entered into a Purchase Agreement with Fusion Capital, 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 million from time to time over a twenty-five (25) month period. We have sold 3,333,332 shares of common stock to Fusion Capital (together with 3,333,332 shares issuable under an immediately exercisable common stock purchase warrant that is 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 February 20, 2008, there were 173,403,188 shares outstanding (155,443,288 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 by Fusion Capital were issued and outstanding as of the date hereof, the 40,000,000 shares would represent approximately 23% of the total common stock outstanding or 26% 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.

Under the Purchase Agreement and the Registration Rights Agreement we are required to register 6,833,332 shares which have already been issued and at least 20,000,000 shares which we may issue to Fusion Capital after this registration statement is declared effective. We have chosen to register an additional 13,166,668 shares more than we

are obligated to under the Purchase Agreement with Fusion in order to have additional shares available to sell under the Purchase Agreement so that the Company can raise funds to further implement its business plan. We are registering under the Securities Act 40,000,000 shares of our common stock, 6,833,332 shares which have already been issued and 33,166,668 shares (13,166,668 shares more than we are required to register under the agreements) which we may issue to Fusion Capital after this registration statement is declared effective under the Securities Act. All 40,000,000 shares are being offered pursuant to this Prospectus. Under the Purchase Agreement, we have the right but not the obligation to sell more than the 40,000,000 shares to Fusion Capital. As of the date hereof, we do not have any plans or intent to sell to Fusion Capital any shares beyond the 40,000,000 shares offered hereby. However, if we elect to sell more than the 40,000,000 shares (which we have the right but not the obligation to do), we must first register under the Securities Act any additional shares we may elect to sell to Fusion Capital before we can sell such additional shares, which could cause substantial dilution to our shareholders.

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We do not have the right to commence any additional sales of our shares to Fusion Capital until the SEC has declared effective the registration statement of which this Prospectus is a part. After the SEC 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 or 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. There are no negative covenants, restrictions on future fundings, penalties or liquidated damages in the Purchase Agreement or the Registration Rights Agreement. The Purchase Agreement may be terminated by us at any time at our discretion without any cost to us, however the agreement provides that neither party has the ability to amend the Purchase Agreement and the obligations of both parties are non-transferable.

We believe that, if we choose to sell up to all of the 33,166,668 shares offered hereby to Fusion Capital, we will have access to the remaining \$20 million of funding potentially available to us as payment for purchases of our shares pursuant to the Purchase Agreement. However, no assurance can be given as to what shares we will actually sell to Fusion Capital. The Company and Fusion Capital agreed to \$21 million because it was the maximum amount Fusion Capital would commit to the Company under the agreement and was based on arms-length negotiations between the parties. Based on the market price of our common stock as of February 20, 2008 (\$0.48), proceeds to us from the sale of the remaining 33,166,668 shares of common stock would only be approximately \$15,920,001. However, the market price of our common stock has been higher and lower than this amount during the past twelve months. We believe that as we execute on our business plan, the market price of our stock will increase and thereby allow us to realize the remaining \$20 million under the agreement by selling the 33,166,668 shares or possibly fewer shares. However, no assurance can be given that this will occur.

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 such term is defined in Rule 501(a) of Regulation D as promulgated by the U.S. Securities and Exchange Commission ("SEC").

Common Stock Offered	48,650,000 shares by the selling stockholders
Offering Price	Market price
Common Stock Currently Outstanding	173,403,188 shares as of February 20, 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

FORWARD-LOOKING STATEMENTS

This Prospectus contains forward-looking statements. 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”, “intend” or “project” or the negative 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.

SUMMARY FINANCIAL DATA

The following table below sets forth certain financial information derived from the Company's audited consolidated financial statements and interim unaudited 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				Period Ended	
	Sept 30, 2007	Sept 30, 2006	Sept 30, 2005	Sept 30, 2004	Sept 30, 2003	Dec 31, 2007
<u>Statement of Operations Data:</u>						
Net Sales	6,880	8,000	-	-	-	0
Research and Development Expense	435,534	949,472	501,423	129,493	-	6,406
Loan Fees	-	628,834	115,000	-	-	89,300
Warrant Expenses	325,303	951,250	-	1,200,000	-	1,308,865
Income(Loss) from Continuing Operations	(1,289,497)	(3,441,940)	(1,400,839)	(1,509,068)	(145,868)	(1,914,928)
Income(Loss) from Continuing Operations per Common Share	\$ (0.01)	\$ (0.02)	\$ (0.02)	\$ (0.01)	\$ (0.02)	\$ (0.01)
<u>Cash Flow Data:</u>						
Net cash provided by (used in) operating activities	(843,416)	(1,942,278)	(1,049,650)	(236,630)	(27,372)	(392,623)
Net cash used in investing activities	(1,822,942)	(2,099,736)	(191,995)	(12,267)	(3)	(192,865)
Net cash provided by financing activities	135,000	8,171,250	1,380,170	1,483,895	29,721	1,000,000
<u>Balance Sheet Data:</u>						
Cash	1,773,748	4,305,105	175,869	37,344	2,346	2,188,260
Property Plant and Equipment, Net	499,868	397,626	165,831	2,270	-	472,035

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Note Receivable	1,500,000	-	-	-	-	1,500,000
Marketable Prototype	1,765,000	1,765,000	-	-	-	1,765,000
Total Assets	5,742,260	6,859,464	441,684	72,114	2,349	6,171,783
Accounts Payable	259,652	582,161	78,377	89,030	-	238,897
Note Payable	-	-	850,000	1,225	-	-
Total Liabilities	312,688	588,699	974,233	96,163	-	293,974
Total Stockholders Equity (Deficit)	5,429,572	6,270,765	(532,549)	(24,049)	2,349	5,877,809
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 December 31, 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)									
	Dec 31, 2007	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
Net Sales	0	0	0	7	0	0	0	0	8	0
Research and Development Expense	6	102	15	109	210	67	369	238	275	143
Loan Fees	89	0	0	0	0	0	0	0	213	115
Income (loss) from Continuing Operations	(106)	239	(496)	(448)	(584)	(174)	(1,121)	(551)	(1,596)	(749)
Income (loss) from Continuing Operations per common share	\$ (0.01)	\$ 0.002	\$ (0.003)	\$ (0.01)	\$ (0.003)	\$ (0.001)	\$ (0.008)	\$ (0.01)	\$ (0.013)	\$ (0.006)

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.

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 stockholders.

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 December 31, 2007, we had an accumulated deficit of \$13,426,778. 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.

On November 1, 2007, XsunX signed a \$21 million Purchase Agreement with Fusion Capital. 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. Concurrently with entering into the Purchase Agreement, we entered into a registration rights agreement with Fusion Capital and we are registering under the Securities Act 40,000,000 shares of our common stock, 6,833,332 shares which have already been issued and 33,166,668 shares which we may issue to Fusion Capital after this registration statement is declared effective under the Securities Act. All 40,000,000 shares are being offered pursuant to this Prospectus. Under the Purchase Agreement, we have the right but not the obligation to sell more than the 40,000,000 shares to Fusion Capital. As of the date hereof, we do not have any plans or intent to sell to Fusion Capital any shares beyond the 40,000,000 shares offered hereby. However, if we elect to sell more than the 40,000,000 shares (which we have the right but not the obligation to do), we must first register under the Securities Act any additional shares we may elect to sell to Fusion Capital before we can sell such additional shares, which could cause substantial dilution to our shareholders.

After the SEC has declared effective the registration statement related to the transaction we only have the right over a 25-month period 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 or 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. Assuming we sell only the 33,166,668 shares offered pursuant to this Prospectus (which Fusion Capital has not yet purchased from us), the selling price of these shares to Fusion Capital will have to average at least \$0.6030 per share for us to receive the maximum remaining proceeds of \$20.0 million. Assuming a purchase price of \$0.48 per share (the closing sale price of the common stock on February 20, 2008) and the purchase by Fusion Capital of 33,166,668 shares under the Purchase Agreement, proceeds to us would be approximately \$15,920,001.

Also, 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. Cumorah Capital is a Nevada corporation and an Accredited Investor, as defined in Rule 501(a) of Regulation D as promulgated by the SEC.

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 or 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 TFPV 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.

We are working to establish our manufacturing capacity for TFPV products 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 do not currently have a manufacturing facility. 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 establishing 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, the 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.

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.

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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. The Company is not an affiliate of or to any of our strategic relationships and we anticipate the use of written contracts to govern the terms of each service agreement, and the vendor customer relationship. A loss of any of our third party relationships for any reason could cause us to experience difficulties in implementing our business strategy. The loss of any strategic relationship could severely impede our ability to complete the assembly of our planned manufacturing facility causing, at minimum, delays and the need to re-qualify suitable providers. There can be no assurance that we could establish other relationships of adequate expertise in a timely manner or at all.

The loss of existing vendor relationships or inability to locate vendors with the specific capabilities or capacities could significantly impede our ability to commercialize the Company's technology resulting in a material adverse effect causing the business to suffer

We rely on vendors to provide materials for use in our manufacturing process, component parts, and equipment for use in the assembly of our manufacturing system. We have selected a primary and secondary vendor for the supply of the various materials, component parts, and equipment employed in our manufacturing process. The Company is not affiliated with any of our vendors and we anticipate the use of written contracts to govern the terms of each purchase and supply commitment, and the vendor customer relationship. The market for the materials, components, and equipment employed by XsunX in the manufacture of our products are developing rapidly and we anticipate that continued growth in the demand for similar material and supplies may cause supplies to become limited or deliveries delayed until such time that vendors can adjust to growth in the demand for their products. There can be no assurance that vendors of sufficient capabilities and/or capacities can adjust in a timely manner or at all to meet any growth in demand for their products. A loss by the Company of any of these vendor relationships or an inability to locate vendors with capabilities and /or capacities necessary to meet our manufacturing system assembly requirements or provide materials in sufficient quantities to support our product production efforts could cause the Company to experience difficulties in implementing our business strategy. The loss of any vendor relationship could severely impede our ability to complete the assembly of our planned manufacturing facility and/or impede or prevent us from producing products thereby causing, at minimum, delays and the need to re-qualify vendors and materials. There can be no assurance that we could establish other relationships of adequate expertise or qualification in a timely manner or at all.

We cannot guarantee you that our patents are broad enough to provide any meaningful protection nor can we assure you that one of our competitors may not develop more effective technologies, designs or methods without infringing our intellectual property rights or that one of our competitors might not design around our technologies.

We have been granted, and exclusively own, three patents from the United States Patent and Trademark Office. We have also been granted a license to a patent and technology portfolio relating to photovoltaic technology design, manufacturing processes, and the development of technology. Under our current plans we intend to leverage the technical experience and knowhow we have developed while working to commercialize our patents and licensed technologies. However, our current TFPV solar module design leverages our experience and knowhow but independently is not the product of nor is it protected under any domestic or international patent rights. Our patents and licenses, and our proprietary TFPV solar module designs, may not protect us against our competitors, and patent litigation is very expensive. We may not have sufficient cash available to pursue any patent litigation to its conclusion because currently we do not generate revenues.

We cannot rely solely on our current patents or our proprietary TFPV solar module designs to be successful. The standards that the U.S. Patent and Trademark Office and foreign patent office's use to grant patents, and the standards that U.S. and foreign courts use to interpret patents are not the same and are not always applied predictably or uniformly and can change, particularly as new technologies develop. As such, the degree of patent protection obtained in the U.S. May differ substantially from that obtained in various foreign countries. In some instances, patents have been issued in the U.S. while substantially less or no protection has been obtained in Europe or other countries.

We cannot be certain of the level of protection, if any, that will be provided by our patents or our efforts to maintain the secrecy of our proprietary TFPV solar module designs. If we attempt to enforce them and they are challenged in court where our competitors may raise defenses such as invalidity, unenforceability or possession of a valid license. In addition, the type and extent of any patent claims that may be issued to us in the future are uncertain. Our patents may not contain claims that will permit us to stop competitors from using similar technology.

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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.

Due to our need to lease manufacturing facilities of suitable size we may encounter difficulties in locating and qualifying for the necessary manufacturing space we need to effectuate our plan.

Our current commercial research and development facilities, located in Golden Colorado, are not sufficient in size to allow for our commercial TFPV module production plans. We will need to secure at least 65,000 sq. ft. of additional commercial space. There can be no assurance that we can locate facilities that are appropriate for our operations, or that we can negotiate reasonable lease terms, qualify, or find access to sufficient utility infrastructure. Our failure to secure suitable manufacturing facilities will have a material adverse effect limiting and potentially prohibit our ability to successfully complete our plan to build and operate 25 MW of TFPV solar module manufacturing capabilities.

Colorado Law Provides Indemnification For Officers, Directors, Employees and Agents of The Company, Which Could Result in Substantial Expenditures By and Have An Adverse Effect On Our Company.

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 and such expenditures could have an adverse effect on our Company.

Colorado Law Excludes Personal Liability of Our Directors To The Company Which Could Limit Our Right To Recover Damages And Have An Adverse Effect On Our Company.

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, which could have an adverse effect on our Company. This provision does not affect the liability of any director under federal or applicable state securities laws.

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Compliance With Sarbanes-Oxley Could Be Time Consuming and Costly, Which Could Cause Our Independent Registered Public Accounting Firm To Conclude That Our Internal Control Over Financial Reporting Is Not Effective.

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.

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 Securities Exchange Act of 1934, as amended (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;
- 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.

We Do Not Anticipate Paying Any Cash Dividends, Which Could Reduce The Value Of Your Stock.

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 our 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 our stock price appreciates.

There Is A Limited Public Market For Our Common Stock, Which Could Prevent You From Liquidating Your Investment.

There is only a limited public market for the Company's common stock, and no assurance can be given that a market will continue or that a stockholder 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 our common stock. Due to the low price of the securities, many brokerage firms may not be willing to effect transactions in our common stock. Even if a purchaser finds a broker willing to effect a transaction in our common stock, 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 our common stock as collateral for any loans.

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 Purchase Agreement, we are registering under the Securities Act 40,000,000 shares of our common stock, 6,833,332 shares which have already been issued and 33,166,668 shares which we may issue to Fusion Capital after this registration statement is declared effective under the Securities Act. All 40,000,000 shares are being offered pursuant to this Prospectus. Under the Purchase Agreement, we have the right but not the obligation to sell more than the 40,000,000 shares to Fusion Capital. As of the date hereof, we do not have any plans or intent to sell to Fusion Capital any shares beyond the 40,000,000 shares offered hereby. However, if we elect to sell more than the 40,000,000 shares (which we have the right but not the obligation to do), we must first register under the Securities Act any additional shares we may elect to sell to Fusion Capital before we can sell such additional shares, which could cause substantial dilution to our shareholders.

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 Market Price Of Our Common Stock Is Highly Volatile, Which Could Adversely Affect The Market Price Of Your Stock.

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

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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.

An Adverse Ruling in the Wharton Capital Litigation Could Reduce The Proceeds Available To Us From Sales of Common Stock to Fusion Capital.

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 pursuant to which plaintiffs seek fees in an amount equal to seven percent (7%) of the gross proceeds received by the Company under the Purchase Agreement. Although the Company asserts that no fees are owed to Wharton Capital Partners, Ltd, Wharton Capital Markets LLC or Capitoline Financial Group LLC, an adverse ruling in favor of plaintiffs could reduce the amount of gross proceeds the Company would otherwise receive under the Purchase Agreement by up to seven percent (7%).

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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 stockholders. We will receive no proceeds from the sale of shares of common stock in this offering. However, we have received (a) \$1,000,000 from Fusion Capital in connection with the initial sale of shares under the Purchase Agreement and we may receive up to an additional \$20 million in proceeds from the sale of our common stock to Fusion Capital under the Purchase Agreement and (b) \$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 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 twenty-five (25) megawatt systems under the Company's planned one hundred (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. We have provided the table below which reflects the receipt by the Company of an aggregate of \$23,500,000 in proceeds from the completed sales to both Fusion Capital and Cumorah Capital and which also assumes the future sale to Fusion Capital of up to an additional \$20,000,000 (the maximum possible) in shares of our common stock under the Purchase Agreement. Please also note that if we are unsuccessful in defending the Wharton Action described in the "Legal Proceedings" section of this Prospectus, each of the figures set forth herein below would be reduced by up to seven percent (7%):

Aggregate Proceeds To Be Received by the Company (Fusion Capital and Cumorah Capital)

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

The table below reflects our use of proceeds based on the issuance of 33,166,668 shares to Fusion Capital at the market price of our shares as of February 20, 2008 (\$0.48 per share) and also the floor price as set forth in the Purchase Agreement (\$0.20 per share). The table also includes \$1,000,000 in proceeds already received by the Company for the sale of 3,333,332 shares to Fusion under the Purchase Agreement, and \$2,500,000 in proceeds received by the Company from the sale of 8,650,000 shares to Cumorah Capital. Please also note that if we are unsuccessful in defending the Wharton Action described in the "Legal Proceedings" section of this Prospectus, each of the figures set forth herein below could be reduced by up to seven percent (7%):

Use Proceeds From Sale of Common Stock To Fusion Capital Only (Including Previous Sales to Fusion Capital and Cumorah Capital)	Market Price at February 20, 2007 (\$0.48)	Floor Price (\$0.20)
Manufacturing Equipment and Sub Systems	\$ 11,300,000	\$ 5,900,000
Working Capital and General and Administrative	5,020,001	2,608,334

Lease Payments and Manufacturing Leasehold Improvements	2,300,000	1,400,000
New Manufacturing Devices, Techniques and R&D	800,000	225,000
Total:	\$ 19,420,001	\$ 10,133,334

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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 Assuming The Company Issues All 33,166,668 Number of Shares Offered Hereby	Percentage of Outstanding Shares Beneficially Owned After Offering ⁽¹⁾
Fusion Capital Fund II, LLC ⁽²⁾	8,496,707 ⁽³⁾	4.9% ⁽⁴⁾	40,000,000 ⁽³⁾	1.9% ⁽³⁾
Cumorah Capital, Inc. ⁽⁵⁾	8,650,000	4.99%	8,650,000	0%
Total:	17,146,707	9.89%	48,650,000	1.9%

(1) Applicable percentage of ownership is based on 173,403,188 shares of our common stock outstanding as of February 20, 2008, together with securities exercisable or convertible into shares of Common Stock within sixty (60) days of February 20, 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) 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.

(3) Of the 8,496,707 shares beneficially held by Fusion Capital, (a) 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 purchased by Fusion Capital for \$1,000,000 and (ii) 3,500,000 shares we issued to Fusion Capital as a commitment fee and (b) up to 1,663,375 shares may be currently issued to Fusion Capital upon the exercise of up to 4.9% of a warrant in accordance with the terms of the warrant. The shares underlying the warrant are not part of this offering. The Company may elect in its sole discretion to sell to Fusion Capital up to an additional 33,166,668 shares under the Purchase Agreement but Fusion Capital does not presently beneficially own those shares as determined in accordance with the rules of the SEC.

(4) Fusion Capital beneficially owns 3.94% of the outstanding shares not including those shares which may be issued to Fusion Capital upon exercise of an immediately exercisable warrant, and 4.9% of the outstanding shares including such warrant shares as a result of a 4.9% ownership limitation in accordance with the terms of the warrant.

(5) 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. Cumorah Capital is not a broker dealer or an affiliate of a broker dealer.

THE FUSION TRANSACTION

General

On November 1, 2007, we entered into a Purchase Agreement with Fusion Capital, 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 million from time to time over a twenty-five (25) month period. We have sold 3,333,332 shares of common stock to Fusion Capital (together with 3,333,332 shares issuable under an immediately exercisable common stock purchase warrant that is 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 February 20, 2008, there were 173,403,188 shares outstanding (155,443,288 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 19.12% of the total common stock outstanding or 21.33% 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.

Under the Purchase Agreement and the Registration Rights Agreement we are required to register 6,833,332 shares which have already been issued and at least 20,000,000 shares which we may issue to Fusion Capital after this registration statement is declared effective. We have chosen to register an additional 13,166,668 shares more than we are obligated to under the Purchase Agreement with Fusion in order to have additional shares available to sell under the Purchase Agreement so that the Company can raise funds to further implement its business plan. We are registering under the Securities Act 40,000,000 shares of our common stock, 6,833,332 shares which have already been issued and 33,166,668 shares (13,166,668 shares more than we are required to register under the agreements) which we may issue to Fusion Capital after this registration statement is declared effective under the Securities Act. All 40,000,000 shares are being offered pursuant to this Prospectus. Under the Purchase Agreement, we have the right but not the obligation to sell more than the 40,000,000 shares to Fusion Capital. As of the date hereof, we do not have any plans or intent to sell to Fusion Capital any shares beyond the 40,000,000 shares offered hereby. However, if we elect to sell more than the 40,000,000 shares (which we have the right but not the obligation to do), we must first register under the Securities Act any additional shares we may elect to sell to Fusion Capital before we can sell such additional shares, which could cause substantial dilution to our shareholders.

We do not have the right to commence any additional sales of our shares to Fusion Capital until the SEC has declared effective the registration statement of which this Prospectus is a part. After the SEC 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 or 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. There are no negative covenants, restrictions on future fundings, penalties or liquidated damages in the Purchase Agreement or the Registration Rights Agreement. The Purchase Agreement may be terminated by us at any time at our discretion without any cost to us, however the agreement provides that neither party has the ability to amend the Purchase Agreement and the obligations of both parties are non-transferable.

We believe that, if we choose to sell up to all of the 33,166,668 shares offered hereby to Fusion Capital, we will have access to the remaining \$20 million of funding potentially available to us as payment for purchases of our shares pursuant to the Purchase Agreement. However, no assurance can be given as to what shares we will actually sell to Fusion Capital. The Company and Fusion Capital agreed to \$21 million because it was the maximum amount Fusion

Capital would commit to the Company under the agreement and was based on arms-length negotiations between the parties. Based on the market price of our common stock as of February 20, 2008 (\$0.48), proceeds to us from the sale of the remaining 33,166,668 shares of common stock would only be approximately \$15,920,001. However, the market price of our common stock has been higher and lower than this amount during the past twelve months. We believe that as we execute on our business plan, the market price of our stock will increase and thereby allow us to realize the remaining \$20 million under the agreement by selling the 33,166,668 shares or possibly fewer shares. However, no assurance can be given that this will occur.

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Purchase of Shares Under the 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; and
- 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 than 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.

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 or 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

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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 twenty-five (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.

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 Capital ⁽¹⁾	Proceeds from the Sale of Shares to Fusion Capital Under the Purchase Agreement ⁽²⁾
\$ 0.20	33,166,668	16.06%	\$ 6,633,334
\$ 0.30	33,166,668	16.06%	\$ 9,950,000
\$ 0.40	33,166,668	16.06%	\$ 13,266,667
\$ 0.48 ⁽³⁾	33,166,668	16.06%	\$ 15,920,001
\$ 0.50	33,166,668	16.06%	\$ 16,583,334
\$ 0.75	26,666,667	13.33%	\$ 20,000,000
\$ 1.00	20,000,000	10.34%	\$ 20,000,000
\$ 2.00	10,000,000	5.45%	\$ 20,000,000

(1)The denominator is based on 173,403,188 shares outstanding as of February 20, 2008, which includes the 6,833,332 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 Purchase Agreement at the corresponding assumed purchase price set forth in the adjacent column.

(2)Includes the 33,116,668 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 February 20, 2008.

Under the Purchase Agreement, we have the right but not the obligation to sell more than the 40,000,000 shares to Fusion Capital, which includes the 6,833,332 shares previously issued to Fusion Capital. As of the date hereof, we do not have any plans or intent to sell to Fusion Capital any shares beyond the 40,000,000 shares offered hereby. However, if we elect to sell more than the 40,000,000 shares (33,166,668 shares not including the 6,833,332 shares previously issued to Fusion Capital), which we have the right but not the obligation to do, we must first register under the Securities Act any additional shares we may elect to sell to Fusion Capital before we can sell such additional shares, which could cause substantial dilution to our shareholders.

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Material Terms of the Registration Rights Agreement

In connection with the Purchase Agreement, the Company and Fusion Capital entered into that certain Registration Rights Agreement, dated November 1, 2007, pursuant to which the Company provided to Fusion Capital certain registration rights under the Securities Act. Specifically, the Company shall file with the SEC a registration statement covering 6,833,332 initial shares issued by the Company to Fusion Capital on November 1, 2007 plus 20,000,000 additional shares which may be issued by the Company to Fusion Capital from time to time after November 1, 2007 pursuant to the Purchase Agreement (collectively, the “Registrable Securities”). Furthermore, the Company agreed to use its best efforts to have such registration statement or amendment(s) declared effective by the SEC at the earliest possible date, and the Company shall use reasonable best efforts to keep such registration statement effective pursuant to Rule 415 promulgated under the Securities Act and available for sales of all of the Registrable Securities at all times until the earlier of (i) the date as of which Fusion Capital may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the Securities Act (or successor thereto) or (ii) the date on which (A) Fusion Capital shall have sold all the Registrable Securities and no available amount remains under the Purchase Agreement.

All reasonable expenses, other than sales or brokerage commissions, incurred in connection with registrations, filings or qualifications, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for the Company, shall be paid by the Company.

Material Terms of the Common Stock Purchase Warrants

In connection with the Purchase Agreement, the Company issued two (2) immediately exercisable common stock purchase warrants to Fusion Capital on November 1, 2007. The first warrant entitles Fusion Capital to purchase up to 1,666,666 shares of the Company’s common stock at a purchase price equal to \$0.50 per share and the second warrant entitles Fusion Capital to purchase 1,666,666 shares of the Company’s common stock at a purchase price equal to \$0.75 per share. Both warrants expire on October 31, 2012. If at any time the shares of common stock underlying the warrants are not registered and would not be freely tradable upon an exercise of the warrant and cash payment, then Fusion Capital may elect to exercise the warrants via a “cashless” exercise in accordance with the formula set forth in the warrants.

THE CUMORAH CAPITAL TRANSACTION

On January 17, 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 such term is defined in Rule 501(a) of Regulation D as promulgated by the SEC. The Company accepted the Cumorah Capital investment for use in the support of efforts to build and operate a solar module manufacturing facility. There is no relationship between Cumorah Capital and Fusion Capital.

PLAN OF DISTRIBUTION

The common stock offered by this Prospectus is being offered by the selling stockholders. The common stock may be sold or distributed from time to time by the selling stockholders 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.

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 stockholders 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. Cumorah Capital may be deemed to be an "underwriter" within the meaning of the Securities Act.

Neither we nor the selling stockholders can presently estimate the amount of compensation that any agent will receive. We know of no existing arrangements between the selling stockholders, any other stockholder, 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 stockholders, 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.

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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.

Fusion Capital 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 stockholders 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 Exchange Act. With certain exceptions, Regulation M precludes the selling stockholders, 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 stockholders.

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.

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 Company believes that no agreement between Wharton and the Company was executed and therefore no valid agreement between the parties exists. 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 seven percent (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. In the event that the Company does not prevail we may be required to provide Wharton a payment of up to seven percent (7%) of any proceeds received by the Company under the Purchase Agreement with Fusion Capital.

DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS

The following table lists the executive offices and directors of the Company as of February 20, 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 our 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 twenty (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 twenty (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 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.

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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 (40) 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 thirteen (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, our Board of Directors had one outside director and did not have any committees. Additional outside directors were appointed in November of 2007. The newly expanded Board of Directors intends to appoint committees as necessary.

Director Independence

The following directors are independent: Thomas Anderson, Oz Fundingsland and Michael Russak.

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The following director is not independent: Tom Djokovich.

The Company uses the following standards for determining independence of its directors:

- They must not have been employed by the Company at anytime during the past three (3) years.
- They must not be a family member of anyone who is or who has been an executive officer of the Company within the past three (3) years.
- They or their family members must not have received in excess of \$120,000 from the Company, except for board fees, for the current fiscal year or the last three (3) fiscal years.
- They or their family members did not work on the Company's audit as part of the Company's independent auditors in the current year or past three (3) years.
- They or their family members must not in the current or past three years be a partner, controlling shareholder or executive officer of an organization that receives more than \$200,000 or five percent (5%) of the Company's gross revenue.
- They or their family members must not be employed as an executive officer of another company on which any of the Company's executive officers serve or has served in the past three (3) years on the compensation committee.
- Additionally, the independence of a director is evaluated by the Company based on all relationships that the director or family members have with the Company and the executive officers. Transaction independence is evaluated on a case-by-case basis using these criteria.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of the date of this Prospectus, the number of shares of common stock owned of record and beneficially by executive officers, directors and persons who hold five percent (5%) or more of the outstanding common stock of the Company as of February 20, 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.

Stockholders/ Beneficial Owners	Number Of Shares	Ownership Percentage⁽¹⁾
Tom Djokovich ⁽²⁾ President & Director	17,903,000	10.32%
Thomas Anderson ⁽³⁾ Director	1,173,338	*
Oz Fundingsland ⁽³⁾ Director	87,671	*
Michael Russak ⁽³⁾ Director	101,370	*
Joseph Grimes ⁽³⁾ Chief Operating Officer	664,000	*
Jeff Huitt ⁽³⁾ 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 stockholder, unless noted otherwise, has sole investment power and sole voting power over the shares.

* Represents less than one percent (1%).

(1) Applicable percentage ownership is based on 173,403,188 shares of common stock issued and outstanding as of February 20, 2008. 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 that are currently exercisable or exercisable within sixty (60) days of February 20, 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 sixty (60) days of the date of February 20, 2008.

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 (“Preferred Stock”). There are no provisions in our Articles of Incorporation or Bylaws that would delay, defer or prevent a change in our control.

Common Stock

As of February 20, 2008, 173,403,188 shares of common stock are issued and outstanding and held by approximately 1,456 stockholders. Holders of our common stock are entitled to one (1) vote for each share on all matters submitted to a stockholder vote.

Holdes 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 Bylaws 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.

Holdes of common stock are entitled to share in all dividends that our 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. Dividends on the Preferred Stock may be declared from time to time by our 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 February 20, 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.

INTERESTS OF NAMED EXPERTS AND COUNSEL

LEGAL MATTERS

The validity of the shares offered hereby has been opined on for us by 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 years ended September 30, 2007, 2006 and 2005 included in this Prospectus and the registration statement to which this Prospectus is made a part 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 development stage company with no significant sources of revenue to date. We are 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 process 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.

Currently, we do not have a manufacturing facility. 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, we anticipate completing the assembly and installation of a small scale production research and development system and initiating construction of our first full scale 25 MW system in 2008. Barring assembly delays, we anticipate completing the assembly of and commissioning our first 25MW line between December 2008 and February 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 by early 2010.

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

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- 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.

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 a thin film solar absorbing compound called amorphous silicon on to a glass substrate. We have designed the use of two layers of amorphous silicon 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.

The specific dimensions and characteristics of the solar module design are as follows:

Physical Characteristics of Modules

Dimensions – 100 x 160 x 5cm (39 x 69 x 2in)

Weight – 13.6 kg (30 lb.)

Maximum Temperature Ratings of Modules

Operating Temperature – -40 to 180°F

Electrical Characteristics of Modules

Cell Spacing – 1.2cm

Number of Cells per Module – 82

Maximum Power Point Voltage, V_{mpp} – 2 Strings, 50V ea or 100V

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§ Maximum Power Point Current, I_{mpp} – 1.27 A/string, 2.54 A/parallel

§ Maximum Power, P_{max} – 120 watts

§ Module Efficiency, Total Area – 7.9%

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 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.

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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.

Planned Manufacturing Facilities

We plan to assemble and operate our initial 25 MW production line within leased single level, commercial manufacturing type facilities of approximately sixty five thousand square feet (65,000 sq. ft.) or more. Our production line requires that we prepare and install service for electrical, water, compressed air, and industrial gases to our machines. These improvements are specific to the support of our manufacturing systems. We plan to establish material and finished product shipping and receiving capabilities within the same facility to support the material requirements for production, and the inventory and shipment of our finished solar modules.

In preparation for the establishment of our thin film solar module manufacturing facility, we have been engaged in a detailed search for an appropriate building. We have narrowed our selection to two (2) suitable buildings and have engaged facility and manufacturing system design teams to evaluate each building. Work currently being performed by our staff and design teams includes evaluation of existing on-site support systems, manufacturing floor plan usability studies and facility improvement cost analysis. Our plan is to secure a building to house our thin film solar module manufacturing systems by the end of March 2008. The Company is engaged in several parallel efforts to establish its planned thin film solar module manufacturing capabilities. In addition to current efforts to finalize a manufacturing facility lease, the Company has also begun placing orders for the major system components necessary to build its planned solar module manufacturing line. To date, orders have been placed for plasma deposition systems, sputtering systems, and lasers systems. These major components, along with other minor subsystems, are scheduled to begin arriving later this year. In preparation for the arrival of these systems, we have planned to secure a manufacturing facility by the end of March 2008 and to begin facility improvements in the May/June 2008 period. We believe this milestone will provide ample time for facility improvements including electrical, gas, plumbing, and other systems necessary to support our manufacturing lines.

Phased Production Build Out and Planned Capacities

In the 2008 calendar year, we anticipate completing the assembly and installation of a small production research and development system and initiating construction of our first full scale 25 MW system. Barring assembly delays, we anticipate completing the assembly of and commissioning our first 25MW line between December 2008 and February 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, we anticipate completing the assembly of the first of these additional lines 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 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.

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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 (100cm x 160cm) 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	Anticipated System		Commissioning Date
		Initial Annualized Solar Modules*	Initial Annualized Watts*	
1st line	1	190,000	25MW	Dec 2008
Addition of 2 nd line	1	190,000	25MW	Nov 2009
Addition of 3 rd line	1	190,000	25MW	Jan 2010
Addition of 4 th 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.

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