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XSUNX INC
Form SB-2/A
February 01, 2006

As filed with the Securities and Exchange Commission on February 1, 2006
Registration Number 333-130972

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Amendment No. 1
to
FORM SB-2
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

XSUNX, INC.
(Name of Small Business Issuer in its Charter)

Colorado	3081	84-1384159
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

65 Enterprise
Aliso Viejo
California 93117
(949) 330-8060
(Address and telephone number of principal executive offices)

Tom Djokovich
Chief Executive Officer
XsunX, Inc.
65 Enterprise
Aliso Viejo
California 93117
(949) 330-8060
(Name, address and telephone number of agent for service)

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

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, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. |X|

If this form is filed to register additional securities for an offering pursuant

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to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

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

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

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount To Be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering
Common Stock, no par value	2,609,263	\$ 0.80	\$ 2,087,410
Common Stock, no par value(2)	10,750,000	\$ 0.80	\$ 8,600,000
Common Stock, no par value(3)	59,520,000	\$ 0.80	\$ 47,616,000
Total	72,879,263		\$ 58,303,410.40

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, as amended. The average of the high and low price per share of the Registrant's Common Stock on the Over the Counter Bulletin Board as of January 9, 2006 was \$.80 per share.

(2) Represents shares issuable upon exercise of warrants.

(3) Represents shares issuable upon conversion of secured convertible debentures. The number of shares to be registered includes 9,520,000 shares issuable upon conversion of convertible debentures representing a debt obligation of \$850,000, including interest, at a fixed conversion price of \$0.10 and up to 50,000,000 shares issuable upon conversion of convertible debentures representing a debt obligation of \$5,000,000 at a conversion price equal to the lesser of \$0.38 or 95% of the lowest daily volume weighted average price of our common stock for the 30 trading days immediately preceding the conversion date, or 13,157,894 shares assuming a conversion price of \$0.38. Pursuant to a registration rights agreement executed in connection with the \$5,000,000 debt obligation, Registrant is required to register up to 50,000,000 shares.

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(4) Of this amount, \$1,571 was paid previously pursuant to SB-2 (File No. 333-127613), which was subsequently withdrawn.

The registrant hereby amends this registration statement on such date or date(s) 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, as amended, 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. The securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS

SUBJECT TO COMPLETION, DATED FEBRUARY 1, 2006

XSUNX, INC.

72,879,263 SHARES OF COMMON STOCK

This prospectus relates to the resale by the selling stockholders of up to 72,879,263 shares of our common stock. The selling stockholders may sell common stock from time to time in the principal market on which the stock is traded at the prevailing market price or in negotiated transactions.

The total number of shares sold herewith includes the following shares owned by or to be issued to Cornell Capital Partners LP:

- (i) up to 9,520,000 shares issuable upon conversion of secured convertible debentures, including interest, at a fixed conversion price of \$0.10 per share;
- (ii) up to 50,000,000 shares issuable upon conversion of secured convertible debentures at a conversion price equal to the lesser of \$0.38 or 95% of the lowest daily volume weighted average price of our common stock for the 30 trading days immediately preceding the conversion date;
- (iii) 4,250,000 shares issuable upon the exercise of warrants at \$0.15 per share;
- (iv) 2,125,000 shares issuable upon the exercise of warrants at \$0.20 per share;
- (v) 3,125,000 shares of common stock issuable upon the exercise of warrants at \$0.45 per share;
- (vi) 1,250,000 shares of common stock issuable upon the exercise of warrants at \$0.55 per share; and
- (vii) 2,544,031 shares previously issued.

We are also including 65,232 shares owned by another shareholder.

We are not selling any shares of common stock in this offering and therefore will not receive any proceeds from this offering. We will, however, receive

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proceeds from the exercise of warrants to purchase 10,750,000 shares of common stock. All costs associated with this registration will be borne by us.

Our common stock currently trades on the Over the Counter Bulletin Board ("OTC Bulletin Board") under the symbol "XSNX.OB."

On January 9, 2006, the last reported sale price for our common stock on the OTC Bulletin Board was \$.80 per share.

THE SECURITIES OFFERED IN THIS PROSPECTUS INVOLVE A HIGH DEGREE OF RISK. SEE "RISK FACTORS" BEGINNING ON PAGE 4 OF THIS PROSPECTUS TO READ ABOUT FACTORS YOU SHOULD CONSIDER BEFORE BUYING SHARES OF OUR COMMON STOCK.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The information in this Prospectus is not complete and may be changed. This Prospectus is included in the Registration Statement that was filed by XsunX, Inc. with the Securities and Exchange Commission. The selling stockholders may not sell these securities until the registration statement becomes effective. This Prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

The date of this Prospectus is _____, 2006

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You may only rely on the information contained in this prospectus or that we have referred you to. We have not authorized anyone to provide you with different information. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities other than the common stock offered by this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any common stock in any circumstances in which such offer or solicitation is unlawful. Neither the delivery of this prospectus nor any sale made in connection with this prospectus shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus or that the information contained by reference to this prospectus is correct as of any time after its date.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus. You should read the entire prospectus carefully, including, the section entitled "Risk Factors" before deciding to invest in our common stock. XsunX, Inc. is referred to throughout this prospectus as "XsunX," "we" or "us."

GENERAL

We are developing new and innovative thin film solar cell designs and manufacturing process with the intent to provide commercially viable solar cell designs that convert sun light into electrical energy. The process for producing electricity from sunlight is known as Photovoltaics. Photovoltaic ("PV") is the science of capturing and converting sun light into electricity.

We are focusing our research and product development efforts on thin film PV devices in an effort to capitalize on what we perceive as cost and application diversity advantages to current rigid multi-crystalline silicon wafer technologies. Our thin film cell designs employ between .2 microns to 1.5 microns of material thickness as opposed to an approximate 400 microns of material thickness for multi-crystalline cell designs. This significant reduction in cell thickness and flexibility of the completed cell structure leads to the use of "thin film" terminology in describing the solar cell design.

The focus of our development efforts is to deliver two aspects of technologies in the form of an integrated solution providing, a) commercially scalable manufactured processes and equipment designed for the specific manufacture of our thin film solar technologies, and, b) proprietary thin film solar cell designs that address new application opportunities in the growing field of Building Integrated Photovoltaics.

Building Integrated Photovoltaics or ("BIPV") in concept, allows photovoltaic material, in the form of photoelectric panels, to be incorporated into the design of building materials; thus, providing a new and smart way to integrate additional sources of power production into the operation of buildings. As the BIPV category of the photovoltaic industry is beginning its growth into the US, and worldwide markets, we intend to attempt to achieve commercialization of BIPV through a combination of innovation and patented thin film designs and manufacturing techniques.

BIPV technology might eventually enable every building to be a virtual power plant by utilizing the power of the sun, through the skin of the building, in an aesthetically sound and structurally safe environment if its economics and productability can be proven.

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Our principal executive office is located at 65 Enterprise, Aliso Viejo, California 92656 and our telephone number at that location is (949) 330-8060.

RECENT FINANCING TRANSACTIONS

12% SECURED CONVERTIBLE DEBENTURES

On July 14, 2005, we completed a Securities Purchase Agreement (the "Purchase Agreement") with Cornell Capital Partners L.P. providing for the sale to Cornell of 12% secured convertible debentures in the aggregate principal amount of \$850,000 (the "July Debentures") of which \$400,000 was advanced immediately. The balance of \$450,000 was advanced on August 16, 2005. The Securities Purchase Agreement contains standard representations and warranties on our part and also limits us in certain activities as long as the Debentures remain outstanding. Among other things, without Cornell's prior written consent, we are restricted from entering into certain transactions with affiliates and issuing additional securities at a below market price.

The July Debentures mature on the first anniversary of the date of issuance and bear interest at the annual rate of 12%. We are required to make monthly principal and interest commencing on the first day of the month following the declaration of effectiveness of the registration statement of which this prospectus forms a part or 120 days from the date of issuance of the July Debentures, whichever occurs first. To date, we have made \$47,217 in interest payments under the July Debentures. All principal payments under the July Debentures have been deferred until the maturity date.

Holders of the July Debentures may convert, at any time, the principal amount outstanding under the July Debentures into shares of our common stock, at a conversion price per share equal to \$0.10.

Upon three-business day advance written notice, we may redeem the July Debentures, in whole or part. In the event that the closing bid price of our common stock on the date that we provide advance written notice of redemption or on the date redemption is made exceeds the conversion price then in effect, the redemption will be calculated at 120% of the July Debentures' face value.

Under the Purchase Agreement, we also issued to Cornell five-year immediately exercisable warrants to purchase 4,250,000 and 2,125,000 shares of Common Stock at \$0.15 and \$0.20, respectively (collectively, the "July Warrants"). Both the July Warrants and the December Warrants discussed below contain a cashless exercise provision that permits Cornell, if the shares underlying the July Warrants and the December Warrants are not then registered or if we are in default under the Debentures, to exercise the July Warrants and the December Warrants by surrendering some or all of these warrants and in lieu of paying the exercise price receiving a number of shares that is less than the number it would have received in case of a cash exercise.

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Assuming cash exercise of all of the July Warrants and the December Warrants, we will receive \$3,210,250. There can be no assurance that all warrants will be exercised for cash, if at all.

10% SECURED CONVERTIBLE DEBENTURES

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On December 12, 2005, we consummated a Securities Purchase Agreement (the "December Purchase Agreement") dated December 12, 2005 with Cornell providing for the sale to Cornell of our 10% secured convertible debentures in the aggregate principal amount of \$5,000,000 (the "December Debentures") of which \$2,000,000 was advanced immediately. The second installment of \$2,000,000 was advanced on January 12, 2006. The last installment of \$1,000,000 will be advanced three days prior to the date the registration statement is declared effective.

The December Debentures mature on the third anniversary of the date of issuance and we are not required to make any payments until the maturity date.

Holder of the December Debentures may convert at any time amounts outstanding under the December Debentures into shares of our common stock at a conversion price per share equal to the lesser of \$0.38 or 95% of the lowest daily volume weighted average price of our common stock for the 30 trading days immediately preceding the date of conversion (the "Variable Market Price"). Unless waived by us (such as in the event that we determine that it is in our best interest to reduce the amount outstanding under the December Debentures without depleting our available cash), the holders may not, together with their affiliates, convert more than an aggregate of \$350,000 in any 30-day period of principal amount of the December Debentures at the Variable Market Price.

We have the right to redeem a portion or all amounts outstanding under the December Debenture at a 15% redemption premium provided that the closing bid price of our common stock is less than \$0.38.

Under the December Purchase Agreement, we also issued to Cornell five-year warrants to purchase 3,125,000 and 1,250,000 shares of common stock at \$0.45 and \$0.55, respectively (together with the July Warrants, the "Warrants").

In connection with the December Purchase Agreement, we also entered into a registration rights agreement providing for the filing of a registration statement of which this prospectus forms a part registering the common stock issuable upon conversion of the July Debentures and the December Debentures and exercise of the Warrants. We are obligated to use our best efforts to cause the registration statement to be declared effective no later than April 11, 2006 and to insure that the registration statement remains in effect until all of the shares of common stock issuable upon conversion of the July Debentures, the December Debentures and exercise of the Warrants have been sold. In the event of a default of our obligations under that registration rights agreement, including our agreement to file it no later than January 11, 2006, or if the registration statement is not declared effective by April 11, 2006, we are required to pay to Cornell, as liquidated damages, for each month that the registration statement has not been filed or declared effective, as the case may be, either a cash amount or shares of our common stock equal to 2% of the liquidated value of the July Debentures and the December Debentures.

The July Debentures and the December Debentures contemplate that we will repay the entire outstanding principal and all accrued interest in cash. To the extent that Cornell, at its discretion, elects to convert all or part of the debentures into shares of common stock, it will extinguish or reduce the amounts due under the debentures. Since the July Debentures and the December Debentures limit Cornell's stock ownership to 4.9%, it may not be able to convert the debentures at all times. Our obligation to repay the debentures continues at any time that Cornell does not elect to convert the debentures. In the event Cornell does not convert, non-payment of cash amounts due under the debenture will be considered a default, irrespective of whether the failure to elect to convert was discretionary on the part of Cornell or was imposed by the 4.9% limitation.

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Our obligations under the July Purchase Agreement and the December Purchase Agreement are secured by substantially all of our assets. As further security for our obligations, we have deposited into escrow 26,798,418 shares of Common Stock. In the event of a default, Cornell will have the right to vote these shares and receive dividends with respect to the shares. Cornell will also have the right to deliver a notice of default. As soon as practicable after receipt of this notice, the escrow agent will release the escrowed shares to Cornell. In addition, Tom Djokovich, our Chief Executive Officer, has granted a security interest in 925,000 shares of Common Stock that he owns to secure the Company's obligations under the July Purchase Agreement only.

Prior to executing the December Purchase Agreement, we had withdrawn the registration statement that included common stock issued to Cornell and common stock to be issued upon the conversion of the July Debentures and the exercise of the July Warrants as well as common stock to be issued pursuant to an equity line of credit extended by Cornell. We also agreed with Cornell to terminate that equity line of credit. Pursuant to that termination agreement, we allowed Cornell to retain 2,544,031 shares of our common stock representing the \$390,000 commitment fee under the equity line of credit. In addition, we allowed Newbridge Securities, Inc. to retain 65,232 shares of common stock issued as compensation for placement agent services in connection with the equity line of credit. All of these shares are included herein.

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THIS OFFERING

Shares offered by Selling
Stockholders..... Up to 72,879,263 shares, including 59,520,000
shares issuable upon conversion of secured
debentures, including interest and 10,750,000
shares issuable upon exercise of warrants of
which 4,250,000 warrants are exercisable at
\$0.15, 2,125,000 warrants are exercisable at
\$0.20 per share, 3,125,000 warrants are
exercisable at \$0.45 per share and 1,250,000
warrants are exercisable at \$0.55 per share*

Common Stock to be outstanding
after the offering..... 196,796,343

Use of Proceeds..... We will not receive any proceeds from the sale
of the common stock hereunder. However, we will
receive proceeds from the cash exercise, if any,
of the warrants owned by the selling
stockholders.

Risk Factors..... The purchase of our common stock involves a high
degree of risk. You should carefully review and
consider "Risk Factors" beginning on page 4

OTC Bulletin Board
Trading Symbol..... XSNX.OB

* Based on the current issued and outstanding number of shares of 123,917,080 (without giving effect to 26,798,418 shares that were issued and deposited into escrow) as of January 9, 2005, and assuming issuance of all shares registered

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herewith, the number of shares offered herewith represents approximately 37.03% of the total issued and outstanding shares of common stock.

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RISK FACTORS

An investment in our shares involves a high degree of risk. Before making an investment decision, you should carefully consider all of the risks described in this prospectus. If any of the risks discussed in this prospectus actually occur, our business, financial condition and results of operations could be materially and adversely affected. If this were to happen, the price of our shares could decline significantly and you may lose all or a part of your investment. The risk factors described below are not the only ones that may affect us. Our forward-looking statements in this prospectus are subject to the following risks and uncertainties. Our actual results could differ materially from those anticipated by our forward-looking statements as a result of the risk factors below. See "Forward-Looking Statements."

RISKS RELATED TO OUR BUSINESS

WE HAVE NOT GENERATED ANY REVENUES AND MAY NEVER ACHIEVE PROFITABILITY

We are a development stage company and, to date, have not generated any revenues. From inception through September 30, 2005, we had an accumulated deficit of \$6,204,284. For the years ended September 30, 2005 and 2004, we incurred net losses of \$1,400,839 and \$1,509,068, respectively. 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. These matters raise substantial doubt about our ability to continue as a going concern.

OUR AUDITORS HAVE INCLUDED A GOING CONCERN QUALIFICATION IN THEIR OPINION WHICH MAY MAKE IT MORE DIFFICULT FOR US TO RAISE CAPITAL

Our auditors have qualified their opinion on our financial statements because of concerns about our ability to continue as a going concern. These concerns arise from the fact that we have not generated sufficient cash flows to meet our obligations and sustain our operations. If we are unable to continue as a going concern, you could lose your entire investment in us.

WE MAY NEED TO RAISE ADDITIONAL CAPITAL WHICH MAY NOT BE AVAILABLE ON ACCEPTABLE TERMS OR AT ALL

Since July 2005, we have received \$4,850,000 in debt financing from Cornell Capital Partners LP. Pursuant to a securities purchase agreement, it has committed to advance an additional \$1,000,000 at the time of effectiveness of the registration statement. In the future, we may be required to raise additional funds, particularly if we exhaust the funds advanced under that agreement, are unable to generate positive cash flow as a result of our operations and are required to repay the convertible debentures as a result of Cornell Capital's failure to convert the debentures into common stock. There can be no assurance that financing will be available in amounts or on terms acceptable to us, if at all. The inability to obtain additional capital may reduce our ability to continue to conduct business operations. If we are unable

On January 9, 2006, the closing bid price of our common stock was \$.80. The debentures issued in July and August 2005 are convertible at a fixed conversion price of \$0.10. The debentures issued in December are convertible at the lower of \$0.38 or 95% of the lowest daily volume weighted average price of our common stock for the 30 trading days immediately preceding the date of conversion. The debentures issued in December 2005 limit the principal amount to be converted at the floating conversion price during any 30-day period to \$350,000. Nevertheless, the number of shares of common stock issuable upon conversion of the outstanding secured convertible debentures issued in December 2005 may increase if the market price of our stock declines. Upon effectiveness of the registration statement of which this prospectus forms a part, all of the shares, including all of the shares issuable upon conversion of the notes and upon exercise of our warrants, may be sold without restriction. The sale of these shares may adversely affect the market price of our common stock.

The variable price feature of our convertible debentures issued in December 2005 could require us to issue a substantially greater number of shares, which will cause dilution to our existing stockholders. The number of shares we will be required to issue upon conversion of the debentures will increase if the market price of our stock decreases. This will cause dilution to our existing stockholders.

THE LOWER THE STOCK PRICE, THE GREATER THE NUMBER OF SHARES ISSUABLE UNDER THE CONVERTIBLE DEBENTURES

The number of shares issuable upon conversion of the debentures issued in December 2005 is determined by the market price of our common stock prevailing at the time of each conversion. The debentures issued in December 2005 limit the principal amount to be converted at the floating conversion price during any 30-day period to \$350,000. Nevertheless, the lower the market price, the greater the number of shares issuable under the debentures. Upon issuance of the shares, to the extent that holders of those shares will attempt to sell the shares into the market, these sales may further reduce the market price of our common stock. This in turn will increase the number of shares issuable under the debentures. This may lead to an escalation of lower market prices and an increasing number of shares to be issued. A larger number of shares issuable at a discount to a continuously declining stock price will expose our shareholders to greater dilution and a reduction of the value of their investment.

A LOWER STOCK PRICE WILL PROVIDE AN INCENTIVE TO CORNELL TO SELL ADDITIONAL SHARES INTO THE MARKET

The number of shares that Cornell will receive under the convertible debentures is determined by the market price of our common stock prevailing at the time of each conversion. The lower the market price, the greater the number of shares issuable under the debentures. As a result, Cornell will have an incentive to sell as large a number of shares as possible to obtain a lower conversion price. This will lead to greater dilution of exiting shareholders and a reduction of the value of their investment

THE ISSUANCE OF OUR STOCK UPON CONVERSION OF THE DEBENTURES COULD ENCOURAGE SHORT SALES BY THIRD PARTIES, WHICH COULD CONTRIBUTE TO THE FUTURE DECLINE OF OUR STOCK PRICE AND MATERIALLY DILUTE EXISTING STOCKHOLDERS' EQUITY AND VOTING RIGHTS.

The debentures have the potential to cause significant downward pressure on the price of our common stock. This is particularly the case if the shares being placed into the market exceed the market's ability to absorb the increased

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number of shares of stock. Such an event could place further downward pressure on the price of our common stock. , which presents an opportunity to short sellers and others to contribute to the future decline of our stock price. If there are significant short sales of our stock, the price decline that would result from this activity will cause the share price to decline more so, which, in turn, may cause long holders of the stock to sell their shares thereby contributing to sales of stock in the market. If there is an imbalance on the sell side of the market for the stock, our stock price will decline. If this occurs, the number of shares of our common stock that is issuable upon conversion of the debentures issued in December 2005 will increase, which will materially dilute existing stockholders' equity and voting rights.

IF WE ARE REQUIRED FOR ANY REASON TO REPAY OUR OUTSTANDING SECURED CONVERTIBLE DEBENTURES, WE WOULD BE REQUIRED TO DEplete OUR WORKING CAPITAL, IF AVAILABLE, OR RAISE ADDITIONAL FUNDS. OUR FAILURE TO REPAY THE SECURED CONVERTIBLE DEBENTURES, IF REQUIRED, COULD RESULT IN LEGAL ACTION AGAINST US, WHICH COULD REQUIRE THE SALE OF SUBSTANTIAL ASSETS.

In July and December 2005, we entered into a Securities Purchase Agreements for the sale of an aggregate of \$5,850,000 principal amount of secured convertible debentures of which to date \$2,850,000 has been funded. Pursuant to a securities purchase agreement, the investor has committed to advance an additional \$2,000,000 at the time of filing of the registration statement of which this prospectus forms a part and \$1,000,000 at the time of effectiveness of the registration statement. These debentures are due and payable, with interest, three years from their respective dates of issuance, unless sooner converted into shares of our common stock. Any event of default such as our failure to repay the principal or interest when due, our failure to issue shares of common stock upon conversion by the holder, or our failure to timely file a registration statement or have such registration statement declared effective, could require the early repayment of the convertible debentures. We anticipate that the full amount of the convertible debentures will be converted into shares of our common stock, in accordance with the terms of these debentures. If we were required to repay the convertible debentures, we would be required to use our limited working capital and raise additional funds. If we were unable to repay the debentures when required, the holders could commence legal action against us and foreclose on all of our assets to recover the amounts due. Any such action would require us to curtail or cease operations.

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THE FOLLOWING RISKS RELATE PRINCIPALLY TO OUR COMMON STOCK AND ITS MARKET VALUE:

THERE IS A LIMITED MARKET FOR OUR COMMON STOCK WHICH MAY MAKE IT MORE DIFFICULT FOR YOU TO DISPOSE OF YOUR STOCK

Our common stock is quoted on the OTC Bulletin Board under the symbol "XSNX.OB." There is a limited trading market for our common stock. Accordingly, there can be no assurance as to the liquidity of any markets that may develop for our common stock, the ability of holders of our common stock to sell our common stock, or the prices at which holders may be able to sell our common stock.

OUR STOCK PRICE MAY BE VOLATILE

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:

- o technological innovations or new products and services by us or our competitors;

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- o additions or departures of key personnel;
- o sales of our common stock;
- o our ability to integrate operations, technology, products and services;
- o our ability to execute our business plan;
- o operating results below expectations;
- o loss of any strategic relationship;
- o industry developments;
- o economic and other external factors; and
- o period-to-period fluctuations in our financial results.

Because we have a limited operating history with no 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.

WE HAVE NOT PAID DIVIDENDS IN THE PAST AND DO NOT EXPECT TO PAY DIVIDENDS IN THE FUTURE. ANY RETURN ON INVESTMENT MAY BE LIMITED TO THE VALUE OF OUR COMMON 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 the board of directors may consider relevant. If we do not pay dividends, our common stock may be less valuable because a return on your investment will only occur if its stock price appreciates.

OUR COMMON STOCK IS DEEMED TO BE PENNY STOCK WITH A LIMITED TRADING MARKET

Our common stock is currently listed for trading on the OTC Bulletin Board which is generally considered to be a less efficient market than markets such as NASDAQ or other national exchanges, and which may cause difficulty in conducting trades and difficulty in obtaining future financing. Further, our securities are subject to the "penny stock rules" adopted pursuant to Section 15 (g) of the Securities Exchange Act of 1934, as amended, or Exchange Act. The penny stock rules apply to non-NASDAQ companies whose common stock trades at less than \$5.00 per share or which have tangible net worth of less than \$5,000,000 (\$2,000,000 if the company has been operating for three or more years). Such rules require, among other things, that brokers who trade "penny stock" to persons other than "established customers" complete certain documentation, make suitability inquiries of investors and provide investors with certain information concerning trading in the security, including a risk disclosure document and quote information under certain circumstances. Many brokers have decided not to trade "penny stock" because of the requirements of the penny stock rules and, as a result, the number of broker-dealers willing to act as market makers in such securities is limited. In the event that we remain subject to the "penny stock rules" for any significant period, there may develop an adverse impact on the market, if any, for our securities. Because our securities are subject to the "penny stock rules," investors will find it more difficult to dispose of our securities. Further, for companies whose securities are traded in the OTC Bulletin Board, it is more difficult: (i) to obtain accurate quotations, (ii) to obtain coverage for significant news events because major wire services, such as the Dow Jones News Service, generally do not publish press releases about such companies, and (iii) to obtain needed capital.

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FORWARD-LOOKING STATEMENTS

Our representatives and we may from time to time make written or oral statements that are "forward-looking," including statements contained in this prospectus and other filings with the Securities and Exchange Commission, reports to our stockholders and news releases. All statements that express expectations, estimates, forecasts or projections are forward-looking statements within the meaning of the Act. In addition, other written or oral statements which constitute forward-looking statements may be made by us or on our behalf. Words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," "projects," "forecasts," "may," "should," variations of such words and similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in or suggested by such forward-looking statements. We undertake no obligation to update publicly any forward-looking statements, whether as a result of new information, future events or otherwise. Important factors on which such statements are based are assumptions concerning uncertainties, including but not limited to uncertainties associated with the following:

- (a) volatility or decline of our stock price;
- (b) potential fluctuation in quarterly results;
- (c) our failure to earn revenues or profits;
- (d) inadequate capital and barriers to raising the additional capital or to obtaining the financing needed to implement its business plans;
- (e) inadequate capital to continue business;
- (f) changes in demand for our products and services;
- (g) rapid and significant changes in markets;
- (h) litigation with or legal claims and allegations by outside parties;
- (i) insufficient revenues to cover operating costs.

USE OF PROCEEDS

This prospectus relates to shares of our common stock that may be offered and sold from time to time by selling stockholders. We will receive no proceeds from the sale of shares of common stock in this offering. However, we will receive proceeds from the exercise, if any, of the warrants owned by the selling stockholders.

MANAGEMENT'S DISCUSSION AND ANALYSIS OR PLAN OF OPERATION

CAUTIONARY AND FORWARD LOOKING STATEMENTS

In addition to statements of historical fact, this Prospectus contains forward-looking statements. The presentation of future aspects of XsunX, Inc. ("XsunX," the "Company" or "issuer") found herein is subject to a number of risks and uncertainties that could cause actual results to differ materially from those reflected in our financial statements. Readers are cautioned not to

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place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date hereof. Without limiting the generality of the foregoing, words such as "may," "will," "expect," "believe," "anticipate," "intend," or "could" or the negative variations thereof or comparable terminology are intended to identify forward-looking statements.

These forward-looking statements are subject to numerous assumptions, risks and uncertainties that may cause our actual results to be materially different from any future results expressed or implied by us in our financial statements. Important facts that could prevent us from achieving any stated goals include, but are not limited to, the following:

Some of these risks might include, but are not limited to, the following:

- (a) volatility or decline of our stock price;
- (b) potential fluctuation in quarterly results;
- (c) our failure to earn revenues or profits;
- (d) inadequate capital to continue or expand our business, inability to raise additional capital or financing to implement our business plans;
- (e) failure to commercialize our technology or to make sales;
- (f) rapid and significant changes in markets;
- (g) litigation with or legal claims and allegations by outside parties;
- (h) insufficient revenues to cover operating costs.

There is no assurance that we will be profitable, we may not be able to successfully develop, manage or market our products and services, we may not be able to attract or retain qualified executives and technology personnel, our products and services may become obsolete, government regulation may hinder our business, additional dilution in outstanding stock ownership may be incurred due to the issuance of more shares, warrants and stock options, or the exercise of warrants and stock options, and other risks inherent in the our businesses.

We undertake no obligation to publicly revise these forward-looking statements to reflect events or circumstances that arise after the date hereof. Readers should carefully review the factors described in other documents we file from time to time with the Securities and Exchange Commission, including the Quarterly Reports on Form 10-QSB and Annual Report on Form 10-KSB filed by the Company in 2005 and 2004 and any Current Reports on Form 8-K filed by the Company.

For the year ended September 30, 2005, we have and continue to focus on the development and refinement of commercially appealing solar cell designs, proprietary manufacturing processes and facilities design that could be provided to our future licensees as turn-key solutions for the mass production of Power Glass(TM) thin films. A large part of our capital was used for product development. However, this may begin to shift towards marketing, sales, and business development in this new fiscal year ending September 30, 2006.

GROWTH, REVENUE AND DISTRIBUTION PLAN

We intend to market our integrated manufacturing systems as turnkey solutions for the manufacture our current and future PV thin films designs. The manufacturing systems will be sold to manufacturers as modular systems and licensed for use in the manufacture our thin film designs. Manufacturers would in turn agree to manufacture and distribute our PV thin films, or incorporate

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the thin film PV technology into their product manufacturing process as an "original equipment manufacturer" (OEM) and sell the finished product to their consumers. No licenses or contracts now exist with any manufacturer.

We intend to target customers who are developing their own technology platforms in which the manufacture of or the integration of our thin film solar cells could play an important role. We will offer non-exclusive manufacturing licenses and expects to earn a royalty on thin films manufactured. In selling the manufacturing equipment and licensing the technology to manufacturers, we reduce operating expenses and save capital in plant, property and equipment. As a result, should we realize earnings, we intend to reinvest our retained earnings in R&D in an effort to continuously develop related new technologies that will help us achieve sustainable competitive advantages.

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MARKETING STRATEGY

We intend to enhance, promote and support the idea that our manufacturing systems and thin film technologies present a compelling and efficient solution for the scalable manufacture of diverse photovoltaic thin films. In order to create a favorable environment for sales, we plan to undertake advertising and promotion efforts. These efforts may be outsourced and will require the services of an advertising relations firm. We plan to interview various firms and select those most capable of assisting us with comprehensive advertising and promotion plans. We intend to commence building and staffing our marketing department to accelerate these efforts in the first part of 2006. We have not yet finalized the potential costs of our marketing strategy.

We will invest in small test campaigns before committing to large promotions or marketing campaigns. Our initial marketing strategy we will be to market to potential manufacturer partners in our target markets representing solar device manufactures, glass, and building materials manufacturers.

PLAN OF OPERATIONS

We anticipate the 12-month capital operational requirements of the company to be \$4,500,000 dollars. Since our reorganization on September 30, 2003 we have raised amounts necessary to finance operations through the placement of equity capital in the form of one or more private offering's of common stock to accredited investors. On July 14, 2005 and December 12, 2005 we issued convertible debentures in the amount of \$850,000, and \$5,000,000, respectively to an accredited investor. The net proceeds from the placement of equity capital and the debentures will be applied to our 12 month plan of operations as follows: (i) approximately \$550,000 will be used to pay costs associated with completion of product development of the Power Glass(R) product under our Phase III development plan, (ii) approximately \$675,000 will be used to pay costs associated with the development of a 4-Terminal nano-crystalline solar cell patent for commercialization purposes, (iii) approximately \$1,700,000 will be used for the manufacture of a marketable commercial scale manufacturing system, (iv) approximately \$210,000 will be used for the engineering and adaptation of certain manufacturing devices and techniques to provide product manufacturing demonstration capabilities, (v) approximately \$50,000 will be used to purchase testing and development equipment or expand existing facilities, (vi) approximately \$100,000 will be used to pay for third party engineering, testing, and consulting services, (vii) approximately \$485,000 will be used to pay salaries and general administrative costs, and for intellectual property protection, (viii) approximately \$225,000 will be used to pay for sales and market development, general competitive research and publicity costs, and (v) approximately \$505,000 will be used for general working capital.

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aggregate principal amount of \$5,000,000 (the "December Debentures") of which \$2,000,000 was advanced immediately. The second installment of \$2,000,000 was advanced on January 12, 2006. The last installment of \$1,000,000 will be advanced three days prior to the date the registration statement is declared effective.

The December Debentures mature on the third anniversary of the date of issuance and we are not required to make any payments until the maturity date.

Holders of the December Debentures may convert at any time amounts outstanding under the December Debentures into shares of our common stock at a conversion price per share equal to the lesser of \$0.38 or 95% of the lowest daily volume weighted average price of our common stock for the 30 trading days immediately preceding the date of conversion (the "Variable Market Price"). Unless waived by us (such as in the event that we determine that it is in our best interest to reduce the amount outstanding under the December Debentures without depleting our available cash), the holders may not, together with their affiliates, convert more than an aggregate of \$350,000 in any 30-day period of principal amount of the December Debentures at the Variable Market Price.

We have the right to redeem a portion or all amounts outstanding under the December Debenture at a 15% redemption premium provided that the closing bid price of our common stock is less than \$0.38.

Under the December Purchase Agreement, we also issued to Cornell five-year warrants to purchase 3,125,000 and 1,250,000 shares of common stock at \$0.45 and \$0.55, respectively (collectively, the "Warrants").

In connection with the December Purchase Agreement, we also entered into a registration rights agreement providing for the filing of a registration statement of which this prospectus forms a part registering the common stock issuable upon conversion of the July Debentures and the December Debentures and exercise of the warrants. We are obligated to use our best efforts to cause the registration statement to be declared effective no later than April 11, 2006 and to insure that the registration statement remains in effect until all of the shares of common stock issuable upon conversion of the July Debentures, the December Debentures and exercise of the July Warrants and the December Warrants have been sold. In the event of a default of our obligations under that registration rights agreement, including our agreement to file it no later than January 11, 2006, or if the registration statement is not declared effective by April 11, 2006, we are required pay to Cornell, as liquidated damages, for each month that the registration statement has not been filed or declared effective, as the case may be, either a cash amount or shares of our common stock equal to 2% of the liquidated value of the July Debentures and the December Debentures.

The July Debentures and the December Debentures contemplate that we will repay the entire outstanding principal and all accrued interest in cash. To the extent that Cornell, at its discretion, elects to convert all or part of the debentures into shares of common stock, it will extinguish or reduce the amounts due under the debentures. Since the July Debentures and the December Debentures limit Cornell's stock ownership to 4.9%, it may not be able to convert the debentures at all times. Our obligation to repay the debentures continues at any time that Cornell does not elect to convert the debentures, irrespective of whether the failure to elect to convert was discretionary on the part of Cornell or was imposed by the 4.9% limitation.

Our obligations under the July Purchase Agreement and the December Purchase Agreement are secured by substantially all of our assets. As further security for our obligations, we have deposited into escrow 26,798,418 shares of Common

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Stock. In the event of a default, Cornell will have the right to vote these shares and receive dividends with respect to the shares. Cornell will also have the right to deliver a notice of default. As soon as practicable after receipt of this notice, the escrow agent will release the escrowed shares to Cornell. In addition, Tom Djokovich, our Chief Executive Officer, has granted a security interest in 925,000 shares of Common Stock that he owns to secure the Company's obligations under the July Purchase Agreement only.

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Prior to executing the December Purchase Agreement, we had withdrawn the registration statement that included common stock issued to Cornell and common stock to be issued upon the conversion of the July Debentures and the exercise of the July Warrants as well as common stock to be issued pursuant to an equity line of credit extended by Cornell. We also agreed with Cornell to terminate that equity line of credit. Pursuant to that termination agreement, we allowed Cornell to retain 2,544,031 shares of our common stock representing the \$390,000 commitment fee under the equity line of credit. In addition, we allowed Newbridge Securities, Inc. to retain 65,232 shares of common stock issued as compensation for placement agent services in connection with the equity line of credit.

We believe that the funds received and to be received from Cornell will be sufficient to fund and expand our business over the next 12 months. If for some reason we are required to repay the entire \$5,850,000 under the convertible debentures, , we may have to obtain additional operating capital from other sources to enable us to execute our business plan. We anticipate that we will obtain any additional required working capital through the private placement of Common Stock to domestic accredited investors pursuant to Regulation D of the Securities Act of 1933, as amended (the "Act"), or to offshore investors pursuant to Regulation S of the Act. There is no assurance that we will obtain the additional working capital that we need through the private placement of Common Stock. In addition, such financing may not be available in sufficient amounts or on terms acceptable to us.

NET OPERATING LOSS

For federal income tax purposes, we have net operating loss carry forwards of approximately \$6,204,284 as of September 30, 2005. These carry forwards will begin to expire in 2010. The use of such net operating loss carry forwards to be offset against future taxable income, if achieved, may be subject to specified annual limitations.

RESULTS OF OPERATIONS FOR THE THREE-MONTH PERIOD ENDED JUNE 30, 2005 COMPARED TO THE SAME PERIOD IN 2004

We generated no revenues in the period ended June 30, 2005 as well as for the same period in 2004. We incurred operating expenses totaling \$282,343 for the three months ended June 30, 2005 compared to \$122,213 for the same period in 2004. Primary sources for the increase to operating expense of \$160,130 include: an increase of \$82,665 in Research and Development activities, an increase of \$42,295 in Public Relations activity, and an increase of \$35,170 in General and Administrative expenses related to an increase in legal, accounting and business development expenses. The \$282,343 operating expenses includes non-cash charges of \$22,950 for the issuance of unregistered stock for business development and advisory services in lieu of cash payment for services.

The net loss for the three months ended June 30, 2005 was (\$282,245) as compared to a net loss of (\$122,213) for the same period 2004. The increase of \$160,032 includes (i) an increase in research and development expenditures of \$82,665

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which is anticipated to continue to increase for the foreseeable future as we further our efforts to complete the commercial development of a licensable process for the manufacture of semi-transparent solar electric glazing technologies and (ii) an increase of \$77,367 in General and Administrative expenses attributed to our business development and investor awareness efforts.

These expenses are anticipated to continue to increase as we continue the development of our business plan as a developer and provider of solar electric technologies.

RESULTS OF OPERATIONS FOR THE NINE MONTH PERIOD ENDED JUNE 30, 2005 COMPARED TO SAME PERIOD ENDED JUNE 30, 2004

We had no revenues in the nine-month period ended June 30, 2005 as well as for the same period in 2004.

We incurred operating expenses totaling \$652,765 in the nine-month period ended June 30, 2005 compared to \$228,355 in the same period ended June 30, 2004. The major components of the expenses in the nine-month period were Contract R&D of \$357,646, salaries of \$120,144, legal and accounting fees of \$49,783, public relations expenses of \$81,871, and general and administrative expenses of 43,312. These expenses were all incurred in preparing to commercialize a licensable process for the manufacture of semi-transparent solar electric glazing technologies.

We incurred consolidated net losses of (\$652,249) and (\$228,355) in the nine-month period ended June 30, 2005 and 2004 respectively. The associated net loss per share was nominal in the nine-month period ended June 30, 2005 and 2004.

We expect the trend of losses to continue at an accelerated rate in future quarters until we are able to begin sales of significance of which there is no assurance

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LIQUIDITY AND CAPITAL RESOURCES

We had cash at June 30, 2005 of \$3,620 and prepaid expenses in the amount of \$43,500 equaling total current assets of \$47,120 as compared to cash of \$37,344 in cash and prepaid expenses in the amount of \$20,000 equaling total current assets of \$57,344 as of September 30, 2004. We had a net working capital (deficit) of (\$306,173) as compared to a working capital (deficit) of (\$38,819) at September 30, 2004. There were no cash flows provided from operations during the nine-month period ended June 30, 2004 and increases to general, administrative, research and development expenses in these periods resulted in an overall increase to working capital deficits.

Cash flow from financing activities used in operating activities during the nine-month period ended, June 30, 2005, was (\$380,894) as compared to using (\$112,416) for the same period 2004. The increase of cash used in operations of \$268,478 included (i) an increase in research and development expenses of \$82,665 (ii) non-cash charges of \$34,000 for un-registered stock issued for investor relations and advisory services in lieu of cash payments (iii) and an increase of \$151,813 in general and administrative expenses in the commercial development of our new business objectives. The value of the stock issued for services was determined by using the value of the last sale closing price or a monthly average closing price as quoted on the OTCBB on the date of issuance.

For the nine-months ended June 30, 2005, our capital needs have been met from

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the proceeds of a series of private placements of Common Stock. We completed private placements of our common stock pursuant to Regulation S totaling \$531,394.97 in the nine-months ended June 30, 2005 of which \$40,260 was completed in the quarter ended June 30, 2005 as compared to \$179,212 for the nine-months ended June 30, 2004. The proceeds from the above sales of unregistered securities were used to fund our research and developments and day-to-day operations and to pay the accrued liabilities associated with these operations.

Cash and cash deposits at June 30, 2005 were \$47,500, a decrease of \$125,494 from March 31, 2005. We had, at June 30, 2005, a working capital (deficit) of (\$306,173). We anticipate that there will not be sufficient cash generated from operations in the current year necessary to fund our current and anticipated cash requirements. We are currently engaged in efforts to obtain additional financing from equity and debt placements as discussed immediately below.

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BUSINESS

COMPANY HISTORY

We were incorporated in Colorado on February 25, 1997, under the name Sun River Mining Inc. Effective September 24, 2003, we completed a Plan of Reorganization and Asset Purchase Agreement with Xoptix, Inc., a California corporation. Pursuant to the Plan of Reorganization, we issued 110,530,000 (post reverse split) common shares and changed our name to XsunX, Inc. Prior to the Plan we had no tangible assets and insignificant liabilities.

Also pursuant to the Plan of Reorganization, we acquired the following three patents for 70,000,000 shares (post reverse split one for twenty): No. 6,180,871 for Transparent Solar Cell and Method of Fabrication (Device), granted on January 30, 2001; No. 6,320,117 for Transparent Solar Cell and Method of Fabrication (Method of Fabrication), granted on November 20, 2001; and No. 6,509,204 for Transparent Solar Cell and Method of Fabrication (formed with a Schottky barrier diode and method of its manufacture), granted on January 21, 2003.

OVERVIEW

We are developing new and innovative thin film solar cell designs and manufacturing process with the intent to provide commercially viable solar cell designs that convert sun light into electrical energy. The process for producing electricity from sunlight is known as Photovoltaics. Photovoltaic ("PV") is the science of capturing and converting sun light into electricity.

We are focusing our research and product development efforts on thin film PV devices in an effort to capitalize on what we perceive as cost and application diversity advantages to current rigid multi-crystalline silicon wafer technologies. Our thin film cell designs employ between .2 microns to 1.5 microns of material thickness as opposed to an approximate 400 microns of material thickness for multi-crystalline cell designs. This significant reduction in cell thickness and flexibility of the completed cell structure leads to the use of "thin film" terminology in describing the solar cell design.

The focus of our development efforts is to deliver two aspects of technologies in the form of an integrated solution providing, a) commercially scalable manufactured processes and equipment designed for the specific manufacture of our thin film solar technologies, and, b) proprietary thin film solar cell designs that address new application opportunities in the growing field of

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Building Integrated Photovoltaics.

Building Integrated Photovoltaics or ("BIPV") in concept, allows photovoltaic material, in the form of photoelectric panels, to be incorporated into the design of building materials; thus, providing a new and smart way to integrate additional sources of power production into the operation of buildings. As the BIPV category of the photovoltaic industry is beginning its growth into the US, and worldwide markets, we intend to attempt to achieve commercialization of BIPV through a combination of innovation and patented thin film designs and manufacturing techniques.

BIPV technology might eventually enable every building to be a virtual power plant by utilizing the power of the sun, through the skin of the building, in an aesthetically sound and structurally safe environment if its economics and productability can be proven.

PRODUCT DEVELOPMENT

The first of our product development efforts is Power Glass(TM) - an innovative thin film solar technology that is intended to allow windows to produce electricity from the power of the sun without significantly altering the appearance or use of the window or transparent surface. Using proprietary and patented solar cell designs and manufacturing processes, we are focused on the development of thin film solar cell designs for semi-transparent coatings on thin flexible plastics that create large area monolithic in appearance solar cell structures that you can see through.

The design of the Power Glass solar cell provides for the manufacture of numerous small cells on thin transparent flexible plastics. As part of the manufacturing process numerous individual cells are produced simultaneously on rolls of thin plastic substrates and interconnected using minimally apparent segmentations. The result is a large area integrated solar cell device that is monolithic or uniform in appearance and simulates tinted solar control films used in window shading applications. We believe the advantages to the use of our films in solar glass designs, over current solar glass designs, lie in improved esthetic appearance, reduced manufacturing or assembly requirements, and lower finished product costs.

These cells are single-junction amorphous silicon based (a-Si) solar cells that depending on the degree of light transmission, or transmissivity, are expected to operate at 4% + efficiencies. That is approximately 4 or more watts of direct current can be produced per square foot of Power Glass film. While lower in efficiency than opaque thin film multi-junction amorphous silicon at approximately 5.3-6.4%, and rigid silicon wafers at 12-15% efficiencies the Power Glass films benefit from cost reductions in the manufacturing process. We believe that the following combined attributes will provide Power Glass films a competitive advantage while at the same time addressing architectural glass facade applications that have been under utilized as a platform for the integration of photovoltaic technologies;

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o Low temperature processing techniques of (