IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

In re	§	
XTREME POWER INC.,	§	**CASE NO. 14-10096***
XTREME POWER SYSTEMS, LLC, and	§	**CASE NO. 14-10095**
XTREME POWER GROVE, LLC	§	**CASE NO. 14-10097**
Jointly Administered Debtors.	§	**CHAPTER 11**
	§	**(*Jointly Administered Under**
	§	**CASE NO. 14-10096)**

DISCLOSURE STATEMENT ACCOMPANYING THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION OF XTREME POWER INC., XTREME POWER SYSTEMS, LLC, AND XTREME POWER GROVE, LLC AS DEBTORS AND DEBTORS IN POSSESSION

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THIS DISCLOSURE STATEMENT AND THE ACCOMPANYING PLAN OF REORGANIZATION HAVE NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. THE DEBTORS HAVE REQUESTED A HEARING TO CONSIDER THE ADEQUACY OF THIS DISCLOSURE STATEMENT UNDER SECTION 1125 OF THE BANKRUPTCY CODE. THE DEBTORS RESERVE THE RIGHT TO FURTHER MODIFY OR SUPPLEMENT THIS DISCLOSURE STATEMENT AND THE ACCOMPANYING PLAN OF REORGANIZATION PRIOR TO AND UP TO THE DATE OF SUCH HEARING.

November 7, 2014

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EXHIBITS TO THIS DISCLOSURE STATEMENT

Exhibit A ....First Amended Joint Chapter 11 Plan Of Liquidation Of Xtreme Power Inc., Xtreme Power Systems, LLC, And Xtreme Power Grove, LLC, As Debtors And Debtors In Possession (Including Plan Exhibit 1)

Exhibit B ....Plan Liquidating Trust Agreement

Exhibit C .... Resume of Angelo A. DeCaro, Jr., proposed Trustee of Plan Liquidating Trust

Exhibit D ... Monthly Operating Reports for XPI, XPS, and XPG, month ending September, 2014

TO THE UNITED STATES BANKRUPTCY COURT, CREDITORS AND PARTIES IN INTEREST:

Xtreme Power Inc., ("XPI") Xtreme Power Systems, LLC ("XPS") and Xtreme Power Grove, LLC ("XPG") (XPI, XPG and XPS sometimes herein collectively "Debtors") files this Joint Chapter 11 Disclosure Statement to propose the First Amended Joint Chapter 11 Plan of Liquidation dated November 7, 2014, pursuant to the United States Bankruptcy Code.

DISCLAIMER[1]

THIS DISCLOSURE STATEMENT CONTAINS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN OF REORGANIZATION OF THE DEBTORS AND DEBTORS-IN-POSSESSION UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE (THE "PLAN") IN THIS CHAPTER 11 CASE. THIS DISCLOSURE STATEMENT ALSO CONTAINS SUMMARIES OF CERTAIN OTHER DOCUMENTS RELATING TO THE CONSUMMATION OF THE PLAN OR THE TREATMENT OF CLAIMS AND INTERESTS AND CERTAIN FINANCIAL INFORMATION RELATING THERETO.

THE DISCLOSURE STATEMENT INCLUDES CERTAIN EXHIBITS, EACH OF WHICH ARE INCORPORATED INTO AND MADE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN. THE STATEMENTS AND OTHER INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT WERE MADE AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFIED. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THE DATE SET FORTH ON THE COVER PAGE HEREOF. HOLDERS OF CLAIMS AND INTERESTS MUST RELY ON THEIR OWN EVALUATION OF THE DEBTORS AND THEIR OWN ANALYSIS OF THE TERMS OF THE PLAN IN DECIDING WHETHER TO ACCEPT OR REJECT THE PLAN.

ALL HOLDERS OF CLAIMS AND INTERESTS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ AND CAREFULLY CONSIDER THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS CITED HEREIN AND THE PLAN ATTACHED HERETO, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

THE DEBTORS ARE PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT SOLELY FOR PURPOSES OF SOLICITING HOLDERS OF CLAIMS AND INTERESTS TO ACCEPT OR REJECT THE PLANS. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED BY ANY PERSON FOR ANY OTHER PURPOSE. THE

[1] This proposed Disclosure Statement has not yet been approved under section 1125(b) of the Bankruptcy Code by the Bankruptcy Court as containing "adequate information" for use in connection with the solicitation of acceptances or rejections of the Plan described herein. Accordingly, the filing and dissemination of this proposed Disclosure Statement is not intended and should not in any way be construed as a solicitation of votes on the Plan, nor should the information contained herein be relied upon for any purpose before a determination by the Bankruptcy Court that the proposed Disclosure Statement contains "adequate information."

CONTENTS OF THIS DISCLOSURE STATEMENT SHALL NOT BE DEEMED AS PROVIDING ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE. THE DEBTORS URGE EACH HOLDER OF A CLAIM OR INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY SUCH LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLANS. MOREOVER, THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER. THE SUMMARY OF THE PLAN AND OTHER DOCUMENTS DESCRIBED IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE ACTUAL DOCUMENTS THEMSELVES AND THE EXHIBITS THERETO.

THE DEBTORS BELIEVE THAT THE INFORMATION HEREIN IS ACCURATE BUT ARE UNABLE TO WARRANT THAT IT IS WITHOUT ANY INACCURACY OR OMISSION. THE DEBTORS HAVE NOT AUTHORIZED ANY PARTY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OR THE DEBTORS OR THE VALUE OF THEIR PROPERTY, OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT RELY UPON ANY OTHER INFORMATION, REPRESENTATIONS, OR INDUCEMENTS MADE TO OBTAIN ACCEPTANCE OR REJECTION OF THE PLAN.

THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PLAN. NEITHER THIS DISCLOSURE STATEMENT NOR THE PLAN HAVE BEEN FILED WITH OR REVIEWED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE "SEC") UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE UNDER ANY STATE SECURITIES LAW ("BLUE SKY LAW"). THE PLANS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SEC OR ANY STATE SECURITIES COMMISSION AND NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN.

THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF THE PLAN, CERTAIN OTHER DOCUMENTS, AND CERTAIN FINANCIAL INFORMATION. THE DEBTORS BELIEVE THAT THESE SUMMARIES ARE FAIR AND ACCURATE. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION CONTAINED IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR THE OTHER DOCUMENTS OR FINANCIAL INFORMATION INCORPORATED HEREIN BY REFERENCE, THE PLANS, OR SUCH OTHER DOCUMENTS, AS APPLICABLE, SHALL GOVERN FOR ALL PURPOSES.

EACH HOLDER OF AN IMPAIRED CLAIM OR AN IMPAIRED INTEREST THAT IS ALLOWED TO VOTE SHOULD REVIEW THE ENTIRE PLAN ATTACHED AS EXHIBIT A TO THIS DISCLOSURE STATEMENT BEFORE CASTING A BALLOT. NO PARTY IS AUTHORIZED BY THE BANKRUPTCY COURT TO PROVIDE ANY

INFORMATION WITH RESPECT TO THE PLAN OTHER THAN THAT CONTAINED IN THIS DISCLOSURE STATEMENT.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER OF A CLAIM OR INTEREST IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE TAX CODE; (B) SUCH DISCUSSION IS INCLUDED HEREBY BY THE DEBTORS IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

THE FINANCIAL INFORMATION CONTAINED IN OR INCORPORATED BY REFERENCE INTO THE DISCLOSURE STATEMENT HAS NOT BEEN AUDITED, EXCEPT AS SPECIFICALLY INDICATED OTHERWISE

FOR A VOTE ON THE PLAN TO BE COUNTED, THE BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED BY THE DEBTORS' CLAIMS AND BALLOTING AGENT NO LATER THAN **5:00 P.M. CENTRAL TIME, ON _______________, 2014**. SUCH BALLOTS SHOULD BE CAST IN ACCORDANCE WITH THE SOLICITATION PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT. ANY BALLOT RECEIVED AFTER THE VOTING DEADLINE SHALL NOT BE COUNTED UNLESS OTHERWISE DETERMINED BY THE DEBTORS IN THEIR SOLE AND ABSOLUTE DISCRETION. **THE CONFIRMATION HEARING WILL COMMENCE ON ___, 2014 AT _:_0 _.M. CENTRAL TIME**, BEFORE THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF TEXAS, AUSTIN DIVISION. THE DEBTORS MAY CONTINUE THE CONFIRMATION HEARING FROM TIME TO TIME WITHOUT FURTHER NOTICE OTHER THAN AN ADJOURNMENT ANNOUNCED IN OPEN COURT OR A NOTICE OF ADJOURNMENT FILED WITH THE BANKRUPTCY COURT AND SERVED ON THE MASTER SERVICE LIST AND THE ENTITIES WHO HAVE FILED AN OBJECTION TO THE PLAN, WITHOUT FURTHER NOTICE TO PARTIES IN INTEREST. THE BANKRUPTCY COURT, IN ITS DISCRETION AND BEFORE THE CONFIRMATION HEARING, MAY PUT IN PLACE ADDITIONAL PROCEDURES GOVERNING THE CONFIRMATION HEARING. THE PLAN MAY BE MODIFIED, IF NECESSARY, PRIOR TO, DURING, OR AS A RESULT OF THE CONFIRMATION HEARING, WITHOUT FURTHER NOTICE TO PARTIES IN INTEREST.

THE PLAN OBJECTION DEADLINE IS ___, 2014, AT 5:00 P.M. CENTRAL TIME. ALL OBJECTIONS TO THE PLAN MUST BE FILED WITH THE BANKRUPTCY COURT AND SERVED ON THE DEBTORS AND CERTAIN OTHER PARTIES IN INTEREST IN ACCORDANCE WITH THE DISCLOSURE STATEMENT ORDER SO THAT THEY ARE RECEIVED ON OR BEFORE THE PLAN OBJECTION DEADLINE.

ARTICLE I
INTRODUCTION

A. Explanation of Chapter 11

Chapter 11 is the principal reorganization chapter of the United States Bankruptcy Code. Under chapter 11, a person or entity attempts to reorganize its business and financial affairs for the benefit of its creditors, shareholders and other interested parties. The commencement of a chapter 11 case creates an estate comprising all of the Debtors' legal and equitable interests in property as of the date the petition is filed. Unless the Bankruptcy Court orders the appointment of a chapter 11 trustee, Bankruptcy Code sections 1101, 1107 and 1108 provide that a chapter 11 debtor may continue to operate its business and control the assets of its estate as a "debtor-in-possession" ("DIP") as the Debtors have done in this chapter 11 case since the Petition Date. The filing of a chapter 11 petition also triggers the automatic stay under section 362 of the Bankruptcy Code. The automatic stay is an injunction that halts essentially all attempts to collect pre-petition claims from the Debtors or to otherwise interfere with a Debtors' business or their Estates.

Formulation of a plan of reorganization is the principal purpose of a chapter 11 bankruptcy case. The plan sets forth the means for satisfying the claims of creditors against, and interests of equity security holders in, the debtor. Unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the "Exclusive Period"). Only after the Exclusive Period has expired or is terminated by the Bankruptcy Court, a creditor or any other interested party may file a plan, unless the debtor files a plan within the Exclusive Period or receives an extension of such period by order of the Bankruptcy Court. If a debtor files a plan within the Exclusive Period, the debtor is given sixty (60) additional days (the "Solicitation Period") to solicit acceptances of its plan. Bankruptcy Code section 1121(d) permits the Bankruptcy Court to extend or reduce the Exclusive Period and the Solicitation Period upon a showing of adequate "cause."

Although usually referred to as a plan of reorganization, a plan may simply provide for distribution of the proceeds from a sale of a Debtors' assets, as is the current case.

After the plan has been filed, the holders of claims against, or interests in, a debtor are permitted to vote on whether to accept or reject the plan. Chapter 11 does not require that each holder of a claim against, or interest in, a debtor vote in favor of a plan in order for the plan to be confirmed. At a minimum, however, a plan must be accepted by a majority in number (i.e., more than 50%) and at least two-thirds (2/3) in amount of those claims actually voting, from at least one class of impaired claims under the plan. The Bankruptcy Code also defines acceptance of a plan by a class of interests (equity securities) as acceptance by holders of at least two-thirds of the number of interests that actually voted.

Classes of claims or interests that are not "impaired" under a plan of reorganization are conclusively presumed to have accepted the plan, and therefore are not entitled to vote. A class is "impaired" if the plan modifies the legal, equitable, or contractual rights attaching to the

claims or interests of that class. Modification for purposes of impairment does not include curing defaults and reinstating maturity or payment in full in cash. Conversely, classes of claims or interests that receive or retain no property under a plan of reorganization are conclusively presumed to have rejected the plan, and therefore are not entitled to vote.

Even if all classes of claims and interests accept a plan of reorganization, the Bankruptcy Court may nonetheless still deny confirmation. Bankruptcy Code section 1129 sets forth the requirements for confirmation and, among other things, requires that a plan be in the "best interests" of impaired and dissenting creditors and interest holders and that the plan be feasible. The "best interests" test generally requires that the value of the consideration to be distributed to impaired and dissenting creditors and interest holders under a plan may not be less than those parties would receive if the debtor were liquidated under a hypothetical liquidation occurring under chapter 7 of the Bankruptcy Code. A plan must also be determined to be "feasible," which generally requires a finding that there is a reasonable probability that the debtor will be able to perform the obligations incurred under the plan and that the debtor will be able to continue operations without the need for further financial reorganization or liquidation.

The Bankruptcy Court may confirm a plan of reorganization even though fewer than all of the classes of impaired claims and interests vote to accept such plan. The Bankruptcy Court may do so under the "cramdown" provisions of Bankruptcy Code section 1129(b). In order for a plan to be confirmed under the "cramdown" provisions, despite the rejection of a class of impaired claims or interests, the plan proponent must show, among other things, that the plan does not discriminate unfairly and that it is fair and equitable with respect to impaired classes of claims or interests that have not accepted the plan.

The Bankruptcy Court must further find that the economic terms of the plan meet the specific requirements of Bankruptcy Code section 1129(b) with respect to the subject objecting class. If the plan proponent proposes to seek confirmation of the plan under the provisions of Bankruptcy Code section 1129(b), the plan proponent must also meet all applicable requirements of Bankruptcy Code section 1129(a) (except section 1129(a)(8)). Those requirements include, among other things, that (i) the plan complies with applicable Bankruptcy Code provisions and other applicable law, (ii) the plan be proposed in good faith, and (iii) at least one impaired class of creditors or interest holders has voted to accept the plan.

B. Plan and Disclosure Statement

1. The Debtors' Plan of Reorganization

Debtors as Debtors and Debtors-in-Possession in the above-captioned chapter 11 reorganization case submit this Disclosure Statement pursuant to Bankruptcy Code section 1125 for use in the solicitation of votes on their Joint Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code.[2]

2. The Disclosure Statement

This Disclosure Statement is submitted in accordance with section 1125 of the Bankruptcy Code for the purpose of soliciting acceptances of the Plan from holders of certain

[2] Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan.

Classes of Claims against and Interests in the Debtors. The only holders of Claims and Interests whose acceptances of the Plan are sought are those whose Claims are "impaired" (as that term is defined in Bankruptcy Code section 1124) by the Plan and who are receiving distributions under the Plan. Holders of Claims that are not "impaired" are deemed to have accepted the Plan.

The Debtors have prepared this Disclosure Statement pursuant to Bankruptcy Code section 1125, which requires that a copy of the Plan, or a summary thereof, be submitted to all holders of Claims against and Interests in the Debtor, along with a written disclosure statement containing adequate information about the Debtors of a kind, and in sufficient detail, as far as is reasonably practicable, that would enable a hypothetical, reasonable investor typical of Claimholders to make an informed judgment in exercising their right to vote on the Plan. A copy of the Plan is attached hereto as **Exhibit A**. Terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

This Disclosure Statement sets forth certain relevant information regarding the Debtors' pre-petition operations and financial history, the need to seek chapter 11 protection, significant events that have occurred during the chapter 11 case, and the anticipated procedures for administering and selling the Debtors' assets. This Disclosure Statement also describes terms and provisions of the Plan, including certain alternatives to the Plan, certain effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which distributions will be made under the Plan. Additionally, this Disclosure Statement discusses the confirmation process and the voting procedures that holders of Claims and Interests must follow for their votes to be counted.

This Disclosure Statement was approved by the Bankruptcy Court on __________, 2014. Such approval is required by the Bankruptcy Code, and does not constitute a judgment by the Bankruptcy Court as to the desirability of the Plan or as to the value or suitability of any consideration offered thereunder. Such approval does indicate, however, that the Bankruptcy Court has determined that the Disclosure Statement meets the requirements of Bankruptcy Code section 1125 and contains adequate information to permit the Claimholders whose acceptance of the Plan is solicited, to make an informed judgment regarding acceptance or rejection of the Plan.

THE APPROVAL BY THE BANKRUPTCY COURT OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE PLAN OR A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN. THE MATERIAL CONTAINED HEREIN IS INTENDED SOLELY FOR THE USE OF CREDITORS WITH CLAIMS AGAINST, AND HOLDERS OF INTERESTS IN, THE DEBTORS IN EVALUATING THE PLAN AND VOTING TO ACCEPT OR REJECT THE PLAN AND, ACCORDINGLY, MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN THE DETERMINATION OF HOW TO VOTE ON, OR WHETHER TO OBJECT TO, THE PLAN.

THE DEBTORS BELIEVE THAT THE PLAN AND THE TREATMENT OF CLAIMS AND INTERESTS HEREUNDER IS IN THE BEST INTERESTS OF HOLDERS OF CLAIMS AND INTERESTS, AND PROVIDES FOR A GREATER RETURN THAN UNDER A CHAPTER 7 LIQUIDATION AND URGE THAT YOU VOTE TO ACCEPT THE PLAN.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE COMMISSION PASSED ON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL. THE PLAN SHOULD BE REVIEWED CAREFULLY.

C. Sources of Information

Except as otherwise expressly indicated, the portions of this Disclosure Statement describing the Debtors, their former business, properties and management, and the Plan have been prepared from publicly-available information regarding the Debtors. Certain of the materials contained in this Disclosure Statement are taken directly from other readily accessible documents or are digests of other documents. In the event of a discrepancy between this Disclosure Statement and the actual terms of a document, the actual terms of such document shall govern and apply.

The statements contained in this Disclosure Statement are made as of the date hereof unless another time is specified, and neither the delivery of this Disclosure Statement nor any exchange of rights made in connection with it shall, under any circumstances, create an implication that there has been no change in the facts set forth herein since the date of this Disclosure Statement.

No statements concerning the Debtors, the value of the Debtors' property, or the value of any benefit offered to the holder of a Claim or Interest in connection with the Plan should be relied on other than as set forth in this Disclosure Statement. In arriving at a decision, parties should not rely on any representation or inducement made to secure their acceptance or rejection that is contrary to information contained in this Disclosure Statement, and any such additional representations or inducements should be immediately reported to counsel for the Debtors, Jordan, Hyden, Womble, Culbreth & Holzer, P.C., 361-884-5678.

D. Rules of Interpretation

The following rules for interpretation and construction shall apply to the Disclosure Statement: (1) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, any reference in the Disclosure Statement to a contract, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (3) unless otherwise specified, any reference in the Disclosure Statement to an existing document, schedule, or exhibit, whether or not filed, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (4) any reference to an Entity as a holder of a Claim or Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references in the Disclosure Statement to Articles are references to Articles of the Disclosure Statement; (6) unless otherwise specified, all references in the Disclosure Statement to exhibits are references to exhibits to the Disclosure Statement; (7) the words "herein," "hereof," and "hereto" refer to the Disclosure

Statement in its entirety rather than to a particular portion of the Disclosure Statement; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Disclosure Statement; (9) unless otherwise set forth in the Disclosure Statement, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) any term used in capitalized form in the Disclosure Statement that is not otherwise defined in the Disclosure Statement, Plan, or exhibits to the Disclosure Statement Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (11) all references to docket numbers of documents filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (l2) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, unless otherwise stated; (13) in computing any period of time prescribed or allowed, the provisions of Bankruptcy Rule 9006(a) shall apply, and if the date on which a transaction may occur pursuant to the Disclosure Statement shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day; and (14) unless otherwise specified, all references in the Disclosure Statement to monetary figures shall refer to currency of the United States of America.

ARTICLE II
OVERVIEW OF THE DEBTORS' PLAN OF REORGANIZATION

A. Overview

A summary of the principal provisions of the Plan and the treatment of Classes of Allowed Claims and Interests is set forth below. This summary is entirely qualified by the Plan attached hereto as Exhibit A. This Disclosure Statement is only a summary of the terms of the Plan. The Plan and not the Disclosure Statement governs the rights and obligations of the parties.

B. General Structure of the Plan

Under the Plan the assets of the Debtors' estates will fund the Plan Trust that will in turn pay Allowed Administrative Claims and then make certain distributions in accordance with the terms of a mediated settlement agreement (the "**Mediation Settlement**"). The distributions shall be based on the allocation of sales proceeds from sales of the Debtors' assets and litigation rights. The Mediation Settlement is attached as Exhibit 1 and is incorporated into the Plan by reference.[3] The Plan Trust shall be administered in accordance with its terms and the terms of the Plan. The Mediation Settlement has been approved by all the settling parties. The Mediation Settlement reflects a compromise of many disputed claims by multiple parties. The Debtor will seek to have the Mediation Settlement approved by the Bankruptcy Court in the Confirmation Order as a compromise of disputed claims. It provides, generally, for the allocation of all estate assets as among the estates of the three Debtors, for distributions to certain creditors, for the allocation of certain rights as among creditors, and for releases and other accommodations as set forth therein.

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[3] If there is any discrepancy between the terms of the Plan and terms of the Mediation Settlement, the Mediation Settlement shall control.

The Debtors believe the Mediation Settlement is in the best interests of their estates and all creditors and that this Plan incorporating its terms should be approved, as the only alternative would be liquidation of the Debtors in Chapter 7, in which case the Debtors believe all their assets would be depleted by litigation and creditors would receive distributions in significantly reduced amounts, if at all.

The Plan appoints Angelo A. DeCaro, Jr. to serve as Plan Trustee for the Plan Trust.

C. Classification of Claims and Interests

Pursuant to section 1122 of the Bankruptcy Code, set forth below is the Plan's designation of classes of Claims against and Interests in the Debtors. All Claims and Interests, except Administrative Claims and Priority Tax Claims, are placed in the Classes as set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims of the kinds specified in sections 507(a)(1) and 507(a)(8) of the Bankruptcy Code have not been classified.

A Claim or Interest is placed in a particular Class only to the extent the Claim or Interest falls within the description of that Class and classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim or Interest is also placed in a particular Class only for the purpose of voting on, and receiving distributions pursuant to, the Plan to the extent such Claim or Interest is an Allowed Claim or an Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

1. Unclassified Claims

Administrative Claims and U.S. Trustee Fees are not classified under the Plan.

Administrative Claims:

In General. Each holder of an Administrative Claim shall, except as otherwise set forth in this Article II, receive: (i) with respect to Administrative Claims existing on the Effective Date, payment of the amount of such holder's Allowed Administrative Claim in cash from the Plan Trust on the later to occur of thirty (30) days after the Effective Date or thirty (30) days after such Claim becomes an Allowed Administrative Claim; or (ii) such other treatment as agreed upon by the Plan Trustee and the holder of an Administrative Claim

Fee Claims. Each professional person whose retention with respect to the Chapter 11 Case has been approved by the Bankruptcy Court and who holds, or asserts, an Administrative Claim that is a Fee Claim shall be required to file with the Bankruptcy Court a final fee application within thirty (30) days after the Effective Date and serve notice thereof on all parties entitled to such notice under applicable federal and local bankruptcy rules. Any such application must apply all retainers received by the applicable professional person. The failure to timely file any such application as required under this Article 2.01(b) of the Plan shall result in the Fee Claim being forever barred and discharged. A Fee Claim, with respect to which a Fee Application has been properly Filed pursuant to this Article 2.01(b) of the Plan, shall become an Administrative Claim

only to the extent allowed by Final Order. Fee Claims shall be paid by the Plan Trustee from the Plan Trust as follows: (i) with respect to Fee Claims which are Allowed Claims on the Effective Date, the amount of such holder's Allowed Claim in one cash payment, within ten (10) days after the Effective Date; (ii) with respect to Fee Claims which become Allowed Claims after the Effective Date, the amount of such holder's Allowed Claim, in one cash payment, within ten (10) days after such claim becomes an Allowed Claim; or (iii) in accordance with such other treatment agreed upon by the Plan Trustee and such holder.

Administrative Claims Bar Date. Any other person or Entity who claims to hold an Administrative Claim (other than a Fee Claim) shall be required to file with the Court an application within sixty (60) days after the Effective Date and to serve notice thereof on all parties entitled to such notice. The failure to file timely the application as required under this article of the Plan shall result in the Claim being forever barred and discharged. An Administrative Claim with respect to which an application has been properly Filed pursuant to this article of the Plan and to which no timely objection has been filed or an objection has been filed but overruled by the Court, shall become an Allowed Administrative Claim to the extent such claim is allowed by Final Order and shall be paid by the Plan Trustee from the Plan Trust in one cash payment, within ten (10) days after such claim becomes an Allowed Claim.

U.S. Trustee Fees. All fees payable under 28 U.S.C. § 1930 shall be paid in cash in full from the Plan Trust within thirty (30) days after the Effective Date or as they come due.

2. Classified Claims

Class 1: Allowed Priority Claims. This Class consists of Allowed Priority Claims with respect to XPI, XPS and XPG.

Class 2: Allowed Secured Tax Claims. This Class consists of Allowed Secured Tax Claims with respect to XPI, XPS and XPG.

Class 3: Secured Claims. This Class consists of the Allowed Secured Claim with respect to XPI, XPS and XPG, in sub classes as follows:

Class 3A-XPI Secured Claims: This Secured Class consists of Allowed Secured Claims held by the following Secured Claimants against the assets of XPI:

Class 3A(i) The deemed allowed claims of Michael Breen as provided for in the Mediation Settlement.

Class 3A(ii) The deemed allowed claims of Langara Capital Partners, Ltd. and Amabro Investments, Ltd., as provided for in the Mediation Settlement.

Class 3A(iii) The deemed allowed claims of the Austin Police Retirement System ("**APRS**"), as provided for in the Mediation Settlement.

Class 3A(iv) All other claims against XPI for which status as a Secured Claim was either scheduled or sought.

Class 3B - XPS Secured Claims: This Class consists of the Allowed Secured Claim held by a Secured Claimant against the assets of XPS. Debtor XPS does not believe there remain any Allowed Secured Claims.

Class 3C - XPG Secured Claims: This Class consists of the Allowed Secured Claim held by a Secured Claimant against the assets of XPG. Debtor XPG does not believe there remain any Allowed Secured Claims.

Class 4: Silicon Valley Bank. This Class consists exclusively of any remaining liability to Silicon Valley Bank. The Debtors believe no such liabilities remain.

Class 5: Allowed Unsecured Claims. This Class consists of all Unsecured Claims with respect to each Debtor as follows:

Class 5A XPI: This sub-class consists of Allowed Unsecured Claims against XPI.
Class 5B XPS: This sub-class consists of Allowed Unsecured Claims against XPS.
Class 5C XPG: This sub-class consists of Allowed Unsecured Claims against XPG.

Class 6: Subordinated Claims. This Class consists of all Claims against the Debtors that are subordinated by agreement or by any Subordination Order.

Class 7: First Wind. This Class consists of the First Wind Claim.

Class 8: Duke/Notrees. This Class consists of the Claims of Duke/Notrees against XPS.

Class 9: Dynapower. This Class consists of the Claims of Dynapower against XPS.

Class 10: Interests. This Class consists of all Interests in the Debtors, as follows:

Class 10A XPI: This sub-class consists of Interests in XPI.
Class 10B XPS: This sub-class consists of XPI's 100% member interest in XPS.
Class10C XPG: This sub-class consists of XPI's 100% member interest in XPG.

D. Liquidation Analysis and "Best Interests" Test

Even if the Plan is accepted by each class of holders of Claims and Interests, the Bankruptcy Code requires that the Bankruptcy Court find that the Plan is in the "best interests" of all holders of Claims or Interests that are impaired by the Plan and that have not accepted the Plan. The "best interests" test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a Bankruptcy Court to find either that (i) all members of an impaired class of claims or interests have accepted the plan or (ii) the plan will provide a member who has not accepted the plan with property of a value, as of the Effective Date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.

To calculate the probable distribution to members of each impaired class of holders of claims or interests if a debtor were liquidated under chapter 7, a Bankruptcy Court must

determine the aggregate dollar amount that would be generated from the Debtors' assets if its chapter 11 case were converted to a case under chapter 7 of the Bankruptcy Code. This "liquidation value" would consist, in the present case, of a distribution of Debtors' assets by a chapter 7 trustee under Chapter 7 of the Bankruptcy Code.

The amount available to pay unsecured creditors would be reduced by the claims of secured creditors to the extent of the value of their collateral and by the costs and expenses of liquidation, as well as by other administrative expenses and costs of both the chapter 7 case and the chapter 11 case. Costs of a liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a chapter 7 trustee, as well as of counsel and other professionals retained by the chapter 7 trustee, asset disposition expenses, all unpaid expenses incurred by the debtor in the chapter 11 case (such as compensation of attorneys, financial advisors, and accountants) that are allowed in the chapter 7 case, litigation costs, and claims arising from the operations of the debtors during the pendency of the bankruptcy case.

Once the Bankruptcy Court ascertains the recoveries in liquidation of holders of secured and priority claims, it must then determine the probable distribution to general unsecured creditors and equity security holders from the remaining available proceeds in liquidation. If such distribution has a value greater than the distributions to be received by creditors and equity security holders under a Debtors' plan, then such plan is not in the best interests of creditors and equity security holders.

The Plan is a liquidating plan, as permitted under the Bankruptcy Code and applicable case law.

The Debtors believe that each member of each Class of Claims and Interests will receive at least as much, if not more, under the Plan as they would receive if the Debtors were liquidated in chapter 7 cases. More specifically, a liquidation of the Debtors would impair and delay recoveries to all stakeholders and clearly is not in the best interests of estate constituencies. Accordingly, it is clear that holders of Claims and Interests will fare much better under the Plan than in a Chapter 7 liquidation.

E. Certain Factors to be Considered Prior to Voting

There are a variety of factors that all holders of Claims and Interests entitled to vote on the Plan should consider prior to voting to accept or reject the Plan. Some of these factors, which are described in more detail below, are as follows and may impact recoveries under the Plan:

- Unless otherwise specifically indicated, the financial information contained in the Disclosure Statement has not been audited and is based on an analysis of data available at the time of the preparation of the Plan and Disclosure Statement.

- This Disclosure Statement describes certain significant federal tax consequences of the transactions contemplated by the Plan that may affect the Debtors, including the realization of cancellation of indebtedness income, a discussion of net operating loss ("NOL") carryforwards. This Disclosure Statement also describes the federal tax

consequences of the transactions contemplated by the Plan that may affect holders of Claims and Interests, including the recognition of taxable income by such holders. Holders of Claims and Interests are urged to consult with their own tax advisors regarding the federal, state, local, and foreign tax consequences of the Plan.

- Although the Debtors believe that the Plan complies with all applicable provisions of the Bankruptcy Code, the Debtors cannot assure such compliance nor that the Bankruptcy Court will confirm the Plan.
- The Debtors may request Confirmation without the acceptance of all Impaired Classes entitled to vote in accordance with section 1129(b) of the Bankruptcy Code.
- Delays of either Confirmation or Consummation could result in, among other things, increased Administrative Claims and Professional Fee Claims.

While these factors could affect distributions available to holders of Allowed Claims under the Plan, the occurrence or impact of such factors will not necessarily affect the validity of the vote of the Impaired Classes entitled to vote to accept or reject the Plan (the "Voting Classes") or necessarily require a re-solicitation of the votes of holders of Claims in such Voting Classes.

ARTICLE III
DEBTORS' HISTORY AND FINANCIAL STATUS AT PETITION DATE

A. Overview Of The Debtors Business

Debtors were founded in November 2006. They designed, installed, and monitored energy storage and power management systems. The Debtors were leaders in the energy storage industry. Xtreme Power was headquartered in Kyle, Texas, with operations throughout the U.S. XPS had a staff of engineers and professionals who designed and implemented storage and power management systems specific to each customer's need. Its customers were Independent Power Producers, Transmission and Distribution Utilities, and Commercial & Industrial End Users, among others.

B. Board of Directors

XPI is the manager and sole member of both XPS and XPG, thus the XPI board of directors effectively controls all three entities.

- Interested Board Members

  - Walter Schindler is Chairman of the Board and the majority owner of Sail Capital. Mr. Schindler is the founder and a Managing Partner of SAIL Capital Partners LLC, and co-manages all aspects of SAIL's operations and investments. His primary responsibilities include capital, finance, operations, exits and communications.

  - F. Henry "Hank" Habicht is a Managing Partner of SAIL Capital Partners LLC and is a pioneering figure in environmental business and government policy and a

successful investor in environmental innovation. His primary responsibilities include investment review, due diligence, deal flow analysis, portfolio management, government relations and regulatory matters. He has held numerous Board seats over the years, currently he sits on the Boards of SAIL companies WaterHealth International, and Xtreme Power, and is a Co-Founder of the American Council of Renewable Energy. He is a Commissioner of the National Commission on Energy Policy, a member of the Board of Directors of the World Environment Center, and has advised several Cabinet Secretaries. He is on the Advisory Board to the National Renewable Energy Lab and the Pacific Northwest National Lab.

- Lee Tashjian is on the SAIL Capital advisory board. He serves as Vice President of Corporate Communications for Fluor Corporation, a Fortune 500 company, where he leads the media relations, marketing, employee communications and community affairs functions.

- Dr. Alan Gotcher is a PhD engineer and is the President of XPI, XPS and XPG. Dr. Gotcher is also currently the President of Younicos, having been hired by Younicos after Younicos purchased substantially all of the operating assets of XPI and XPS.

▾ Independent Board Members

- Umesh Padval is a partner at Bessemer Venture Partners where he focuses on investments in the big data, data infrastructure and clean-tech sectors. He brings to Bessemer more than 20 years of experience in marketing, sales and general management in areas including computing, mobile communications and consumer-digital entertainment.

- Pat Wood, III has served as a principal of Wood3 Resources, an energy infrastructure developer, since July 2005. From 2001 until July 2005, he served as chairman of the Federal Energy Regulatory Commission. From 1995 until 2001, he chaired the Public Utility Commission of Texas. Prior to 1995, he was an attorney with Baker Botts

- Foster Duncan serves on the Boards of Directors of Atlantic Power Corporation, Essential Power, LLC, Xtreme Power Inc., and on the Board of Advisors of NanoFex, LLC. He is also currently a Senior Advisor to EHS Partners in New York, and also a Senior Advisor to Industry Funds Management (US), LLC.

C. Management of the Debtors

Debtors are currently managed by former officers and employees under contract, pursuant to an order of the Bankruptcy Court. See Doc#630, Order Regarding Debtors' Motion to Approve Hourly Based Compensation Terms to Manage the Debtors' Post-Sale Operations, Accounting and Reporting Obligations. Alan Gotcher remains President of the Debtors.

D. Employees

The Debtors are not currently operating. All employees were laid off on April 14, 2014, the date of the sale to Younikos. Most were immediately hired by Younicos.

E. Debtors Corporate Structure

The Debtors **XPI** (a Delaware Corporation) is 100% owner of **XPS** (a Texas Limited Liability Company), and **XPG** (a Delaware Limited Liability Company). XPI also owns 25% of XDT, LLC (a Delaware Limited Liability Company), which is a non-operating company and is not a Debtor.

F. The Debtors' Business

The Debtors manufactured and installed battery and energy storage systems, and they also monitored and controlled the systems remotely from XPS's facility in Kyle.

XPS's employees were arguably its most valuable asset, but the Debtor's financial difficulties pre filing mandated a series of staffing cutbacks, including reduced hours, salary cuts, layoffs, and furloughs. As part of the cutbacks, upper management was working without pay when the case was filed.

XPS implemented its services with a wholly-owned software platform that it developed in-house called Xtreme Active Control Technology – "XACT™."

XPG held a license from Horizon Batteries, LLC to manufacture an advanced lead acid battery that Xtreme Power previously used in some of its energy storage systems and also sold to third parties. However, XPG shut down its battery manufacturing operations in early 2013 and no longer manufactures or sells them. XPG had manufactured the batteries at a leased facility near the city of Grove, Oklahoma. There were several pending disputes between the Debtors and Horizon Batteries, which disputes were a part of the reason for the Debtors' bankruptcy cases.

XPI is primarily a holding company for XPS and XPG but also owned by way of assignment a portfolio of patents that were generated primarily by XPS, and was the owner of a $7 million CD that was pledged to secure a letter of credit that stands as security for XPS's performance with Duke/Notrees. XPI is also owed of inter-company accounts receivables from XPS and XPG of approximately $95 million.

XPI has a fairly complex capital structure, having issued common stock, preferred stock, and convertible notes with warrants, all in private placements to sophisticated venture capital investors. XPI's capital structure is explained in more detail below.

G. Secured Financing of XPI

Prior to the Debtors' bankruptcy filing, one or more of the Debtors were parties to various debt instruments with lenders and investment groups (collectively, the "Prepetition Secured Lenders"). Below is a summary of the Debtors' secured prepetition indebtedness.

Debtor(s)	Lender(s)	Debt Instrument	Outstanding Principal Amount
XPI, XPS, XPG	Silicon Valley Bank	Loan and Security Agreement dated April 18, 2011	$469,845
XPI, XPS, XPG	Horizon Technology Finance Corporation	Secured Promissory Note dated September 28, 2012	$6,000,000
XPI	• SAIL Venture Partners II, L.P. • SAIL 2010 Co-Investment Partners, L.P. • SAIL 2011 Co-Investment Partners, L.P. • SAIL Xtreme SB Co-Investment Partners, LP • SAIL Xtreme APRS Fund LP • SAIL Holdings, LLC • Bessemer Venture Partners VII L.P. • Bessemer Venture Partners VII Institutional, L.P. • BVP VII Special Opportunity Fund L.P. • Austin Police Retirement System • Spring Ventures, LLC • Dominion Energy Technologies II, Inc. • The Dow Chemical Company • BP Alternative Energy International Limited	Promissory Notes pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated June 24, 2011	$19,843,879
XPI	• Louisiana Sustainability Fund, LP • SAIL Holdings LLC • Bessemer Venture Partners VII L.P. • Bessemer Venture Partners VII Institutional, L.P. • BVP VII Special Opportunity Fund L.P. • The Dow Chemical Company • BP Alternative Energy International Limited • Dominion Energy Technologies II, Inc.	Promissory Notes pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated May 25, 2012	$9,155,687

Debtor(s)	Lender(s)	Debt Instrument	Outstanding Principal Amount
	• Langara Capital Partners Ltd		
XPS	Zuniga Investment Partners, Ltd.	Real Estate Lien Note dated June 27, 2012	$580,629
XPI	• SAIL 2011 Co-Investment Partners, L.P. • SAIL Sustainable Louisiana I, L.P. • SAIL Sustainable Louisiana II, L.P. • Amabro Investments Ltd. • Forever 7, LLC • Pendleton Capital Partners, LLC • Wild Rose Irrevocable Trust • James P. Farwell	Promissory Notes pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated August 28, 2012	$4,897,391
XPI	• Sail Venture Partners II, L.P. • Bessemer Venture Partners VII L.P. • Bessemer Venture Partners VII Institutional, L.P. • BVP VII Special Opportunity Fund L.P. • The Dow Chemical Company • SAIL Pre-Exit Acceleration Fund, LP • SAIL Pre-Exit Acceleration Fund, LP • BP Alternative Energy International Limited • SKYLAKEUSA-THREE, LLC • Louisiana Sustainability Fund, LP • SAIL Holdings LLC • Bessemer Venture Partners VII L.P. • Bessemer Venture Partners VII Institutional, L.P. • BVP VII Special Opportunity Fund L.P. • The Dow Chemical Company • Arnel Investments III L.P. • Christensen Limited Liability Limited Partnership	Promissory Notes pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated February 6, 2013	$10,100,000

Debtor(s)	Lender(s)	Debt Instrument	Outstanding Principal Amount
XPI	• SAIL Pre-Exit Acceleration Fund, LP • BP Alternative Energy International Limited • The Dow Chemical Company • SAIL Pre-Exit Acceleration Fund, LP • Forever 7, LLC • Pendleton Capital Partners, LLC • Wild Rose Irrevocable Trust • BP Alternative Energy International Limited • Sail Defense Fund, LLC	Promissory Notes pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated July 23, 2013	$3,200,000
XPI	• SVP II Xtreme Power Joint Venture, LP • Christopher Ryan • The Moelis Family Trust • Jared Joseph Dermont • Yadin Rozov • Trust of Sashi and Cindy Rentala • Steven and Joan Panagos • Barak Klein • Vincent Lima • Mahmoodzadegan - Gappy Trust • Greg Share • Raich Trust • Richard Harding • ISP Holdings, Inc.	Promissory Notes pursuant to the Promissory Note and Warrant Purchase Agreement, dated November 8, 2013	$3,250,000

In connection with the Debtors' execution of these various prepetition loan documents, the Debtors granted liens and security interests in substantially all of their property, including but not limited to, its accounts, real property (including leasehold interests), equipment and inventory, investment securities, and the products and proceeds thereof (the "Prepetition Collateral") in two distinct categories:

a. **XPI Collateral** – this collateral consists primarily of (i) cash in the form of a $7 million letter of credit security fund for the purpose of any shortfalls in an executory contract with Duke Energy; (ii) the 100% membership interests in the subsidiary Debtors **XPS** and **XPG**; and (iii) the inter-corporate accounts receivables due by these

two subsidiaries to XPI in the amount of approximately $95 million[4]; and (iv) certain patent and IP properties.

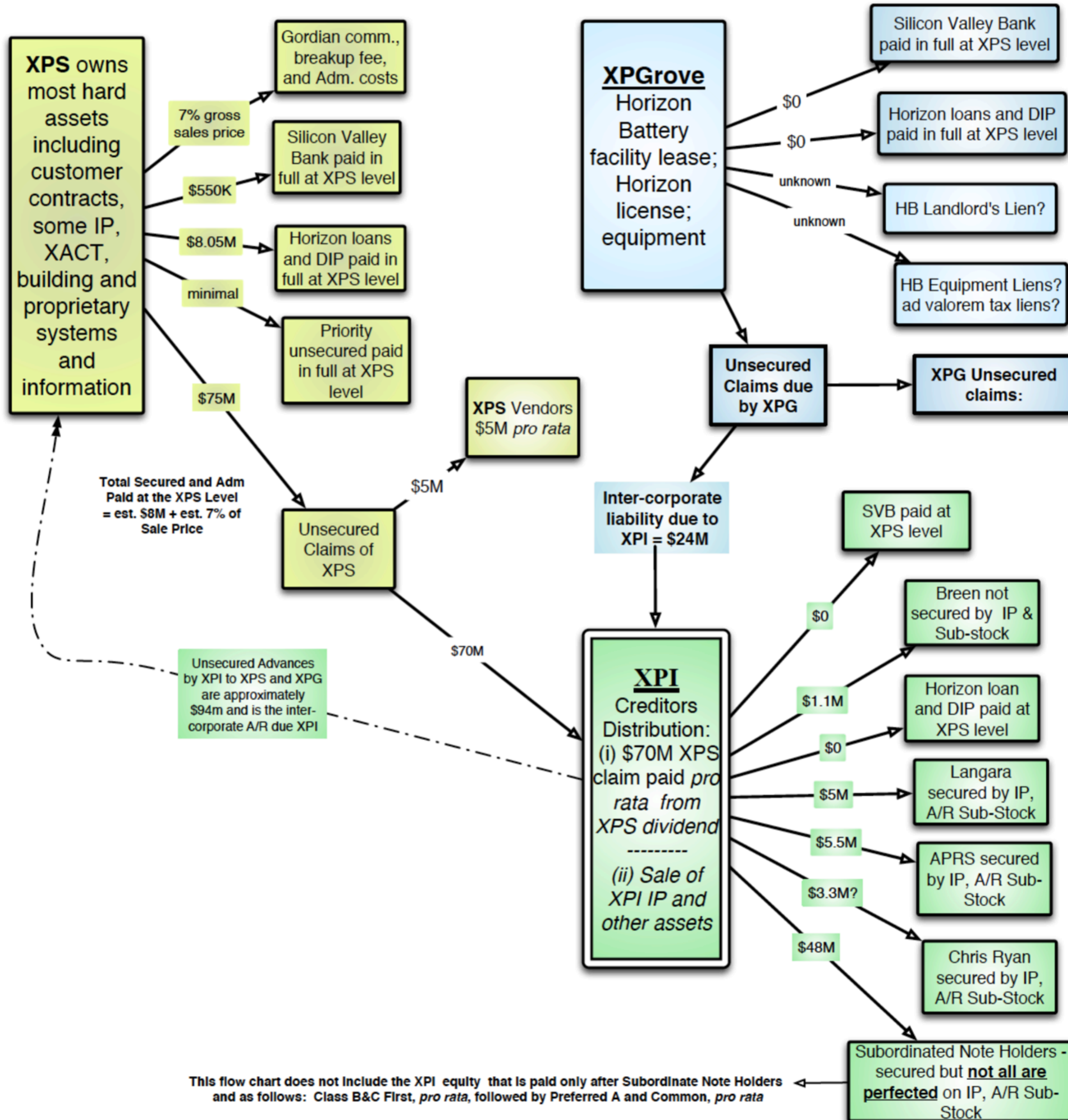
b. **XPS Collateral** – this collateral consists of all of the operating assets of the ongoing business of the Debtors – including all of the IP owned, all contracts for power services, all accounts and accounts receivable due for the contracts and power services, and all equipment forming the XPS operating locations.

Only SVB and Horizon (on account of its prepetition indebtedness) had liens, security agreements, and perfected security interests in XPS in an approximately aggregate amount of $7.2 million.

H. Analysis Chart for Proposed Asset Sale

The following page is a chart prepared by the Debtors that attempted to summarize the status of liens and claims, as well as the allocation of assets that ultimately were sold:

[4] XPI does not have a lien or security interest in any assets of XPS or XPG to secure it in collection of the inter-corporate account receivable. Accordingly, XPI would likely not have any priority over any other creditor of XPS or XPG in a liquidation of XPS or XPG.



DEMONSTRATIVE PURPOSES ONLY - THE ANALYSIS OF DEBT, PERFECTION, AND PRIORITY ARE SUBJECT TO MATERIAL CHANGE AFTER FULL INVESTIGATION IS COMPLETED - YOU CANNOT RELY ON THE ACCURACY OF ANY OF THIS INFORMATION
Analysis of Sale of XPS Assets - with ultimate distributions to XPI based on its inter-corporate A/R due XPI
Note at the XPS level there are no direct secured claims of Breen, Langara, APRS, Chris Ryan and Subordinated Note Holders
Note at the XPG level there are no direct secured claims of Breen, Langara, APRS, Chris Ryan and Subordinated Note Holders
XPS owns most hard assets including customer contracts, some IP, XACT, building and proprietary systems and information
7% gross sales price
Gordian comm., breakup fee, and Adm. costs
$550K
Silicon Valley Bank paid in full at XPS level
$8.05M
Horizon loans and DIP paid in full at XPS level
minimal
Priority unsecured paid in full at XPS level
$75M
XPS Vendors $5M pro rata
$5M
Total Secured and Adm Paid at the XPS Level = est. $8M + est. 7% of Sale Price
Unsecured Claims of XPS
$70M
Unsecured Advances by XPI to XPS and XPG are approximately $94m and is the inter-corporate A/R due XPI
XPGrove Horizon Battery facility lease; Horizon license; equipment
$0
Silicon Valley Bank paid in full at XPS level
$0
Horizon loans and DIP paid in full at XPS level
unknown
HB Landlord's Lien?
unknown
HB Equipment Liens? ad valorem tax liens?
Unsecured Claims due by XPG
XPG Unsecured claims:
Inter-corporate liability due to XPI = $24M
XPI Creditors Distribution: (i) $70M XPS claim paid pro rata from XPS dividend --------- (ii) Sale of XPI IP and other assets
$0
SVB paid at XPS level
$1.1M
Breen not secured by IP & Sub-stock
$0
Horizon loan and DIP paid at XPS level
$5M
Langara secured by IP, A/R Sub-Stock
$5.5M
APRS secured by IP, A/R Sub-Stock
$3.3M?
Chris Ryan secured by IP, A/R Sub-Stock
$48M
Subordinated Note Holders - secured but not all are perfected on IP, A/R Sub-Stock
This flow chart does not include the XPI equity that is paid only after Subordinate Note Holders and as follows: Class B&C First, pro rata, followed by Preferred A and Common, pro rata

ARTICLE IV
DEBTORS FINANCIAL DIFFICULTIES AND THE PATH TO CHAPTER 11

Xtreme Power is a privately held company. From 2009 through 2011 the company experienced rapid growth. Xtreme Power was ranked number 15 on Inc. Magazine's 500|5000 list of the fastest-growing private companies in the U.S. However, a slowdown in bookings and lower gross margins resulted in GAAP revenues for 2012 being down 19%.

On August 1, 2012, a fire occurred at the Kahuku Wind Farm in Hawaii in the building housing the battery energy storage system manufactured by the Company. The building and the energy storage system were destroyed by the fire. The root cause of that fire still remains under investigation. The Company believes publicity related to the fire has negatively impacted project bookings.

By October 2013, various debt and lease agreements were in default and the Company was in default with its secured lenders on revenue and other operating covenants. The defaults were resolved by another round of bridge financing, but the Company continued to forecast negative cash flow from operations, and the Company began to address potential alternatives with the assistance of various professionals and outside advisors, including Gordian Group, LLC ("Gordian Group") and Roth Capital Partners, LLC.

Several offers for purchase and financing arrangements were considered, and the Company was working with a large public company towards a transaction that the Company believed had potential to be a favorable, when the proposed purchaser withdrew from negotiations for reason unknown to the Company. Another large public company that had expressed interest in a transaction also notified the Company in December that it would not be pursuing the transaction. An attempt to obtain further bridge financing fell through in late December, and so in early January the Company's Board determined that serious consideration must be given to filing a Chapter 11 to protect the Company's going concern value for a period of time long enough to effect a sale of the Company, an option that the board had been considering for several months.

Gordian Group approached a number of lenders for interim financing, and financing packages with two leading candidates, Horizon Technology Finance, and Langara Capital Ltd., were negotiated in earnest on a competitive basis. The board chose to proceed with Horizon Technology as the superior proposal; it would have permitted the Company to continue its marketing efforts prior to a bankruptcy filing. However, the Company was informed in in late January, 2013, that Horizon Technology would not proceed outside of bankruptcy. The Company went back to both potential lenders and after additional intensive negotiations arrived at a DIP lender/stalking horse arrangement with Horizon Financial that was presented to the Court for approval and which later resulted in a successful sale.

Several other events contributed to the Company's decision to seek protection in Chapter 11. Many of the Company's secured debt obligations had matured on December 31, 2013. In early January, the Company received a letter from the lawyers for Mr. Breen demanding payment in full of the approximately $1 million obligation that matured December 31. The Company's two most senior secured lenders, Silicon Valley Bank and Horizon Financial, asked

the Company to submit itself to an assignment for the benefit of Creditors in California, which management opposed. The Company's operations team had become concerned about the Company's ability to deliver project milestones on the Company's currently booked projects. One of the Company's production partners refused to commit to support that was needed for an ongoing project because of their expressed fears that the Company was facing financial difficulties and would be unable to meet its obligations. The Debtors were beyond terms on most if its obligations to its vendors. On January 14, the Company received a notice of default from the lawyers for its landlord at its leased building at 1400 Goforth Road.

ARTICLE V
EVENTS DURING THE BANKRUPTCY CASES

A. Cash Situation as of the Filing Date

As of the bankruptcy filing the Company was virtually out of cash, although it has $4.8 million of awarded contracts in development and several others pending. Over the month prior to filing management had drastically reduced the employee head count to preserve capital, along with implementing pay cuts to regular employees an total deferment of compensation for senior management. After paying the retainers to bankruptcy and special counsel that they require to file the Company in Chapter 11 and assist a sale transaction, the Company has only about $34,000 in cash.

B. First Day Motions

The Debtors filed a number of motions at the beginning of the case seeking orders granting various forms of relief intended to stabilize the Debtors' business operations, facilitate the efficient administration of the chapter 11 cases, and which are necessary to avoid the immediate and irreparable harm to the Debtors.

1. DIP Financing

The Debtors sought and obtained authority to obtain post-petition financing in the aggregate amount of up to $2.5 million under Debtor-in-Possession Credit Agreement with Horizon Technology Finance to fund the administrative expenses of the Debtors' estates (i) through the end of February if the Debtors do not obtain a Substitute Stalking Horse Bidder or (ii) through the end of the section 363 sale process (subject to certain deadlines) if the Debtors do obtain a Substitute Stalking Horse Bidder. The post-petition financing ensured that the Debtors had the funds necessary to pay taxes and salaries and to preserve the Debtors' going concern value through the sale process. The Debtors' regular cash flow was not sufficient to pay the ongoing operating and administrative expenses. After a hearing on February 21, 2014, this Court entered an order approving debtor in possession financing on a final basis [Docket No.248] (the "Final DIP Order").

2. Cash Collateral

Debtor XPS had only a small amount of cash collateral and the other Debtors had virtually none. The Debtors' operations in Chapter 11 were financed primarily through the DIP loan from Horizon. The only other entity with an interest in XPS's cash collateral is SVB, from

whom Debtors obtained consent for its use in accordance with the budget and certain conditions in an agreed order.

3. Bid Procedures

Debtor XPS has only a small amount of cash collateral and the other Debtors have virtually none. The Debtors' operations in Chapter 11 will be financed primarily through the DIP loan from Horizon. The only other entity with an interest in XPS's cash collateral is SVB. Debtors believe that SVB will consent to its use of its cash collateral, but if it will not, requests that the Court permit it to use such cash collateral.

4. Administrative Matters

The following first day motions were filed and approved to facilitate efficient governance of the estate:

Motion For An Order Directing Joint Administration Of Chapter 11 Cases

Notice of Designation As Complex Chapter 11 Bankruptcy Cases

Motion of the Debtors for an Order (I) Authorizing the Debtors to Prepare (A) A Consolidated List of Creditors and (B) A Consolidated List of Top Twenty Unsecured Creditors and (II) Extending Debtors' Deadlines to File Certain Schedules and Statements

Motion Debtors' Emergency Motion to (I) Pay Prepetition Employee Wages, Salaries and Other Compensation, (II) Pay Prepetition Employee Payroll Taxes and Benefits and Continue Benefit Programs in the Ordinary Course and (III) Directing Banks to Honor Checks For Payment of Prepetition Employee Obligation

Motion of Debtors Pursuant to Bankruptcy Code Sections 105(a) and 331 for Administrative Order Establishing Interim Compensation Procedures

Debtors Motion Pursuant to Bankruptcy Code Sections 105(a), 362(d), 363(b), 363(c) and 503(b) for Authorization to (A) Continue Their Workers Compensation, Liability, Property, Health, and Other Insurance Programs, (B) Pay All Obligations in Respect Thereof, (C) Continue all Premium Financing Agreements in the Ordinary Course of Business, for Casualty, Loss, and Liability Insurance; and (D) Extend Certain Coverage

Motion For an Order Authorizing the (I) Maintenance of Existing Bank Accounts and Business Forms, (II) Continued Use of Existing Cash Management System, and (III) Relief From Investment Requirements.

C. Lift Stay Litigation with First Wind and Duke/Notrees

First Wind and Duke/Notrees each filed emergency motions to lift the stay and for adequate protection. Substantial litigation ensued, eventually resulting in, among other things, the Source Code Protocols. All other disputes between Debtors and First Wind and Debtors and Duke/Notrees are resolved by the Plan.

D. Horizon Battery

Affiliate Debtor Xtreme Power Grove, LLC ("**XPG**"), had a license from Horizon Batteries, LLC, to manufacture an advanced lead acid battery that XPS used in some of its energy storage systems and also sold to third parties. XPS purchased the batteries from XPG and held them in inventory or sold them to customers. However, XPG shut down its battery manufacturing operations in early 2013 and no longer manufactured or sold them after that date. XPG had manufactured the batteries at a facility near the city of Grove, Oklahoma, that was leased from Horizon Batteries. XPG owned equipment at the Grove facility, but also leased some of the equipment from Horizon Batteries.

Horizon Battery filed pleadings in the bankruptcy case asserting unsupportable claims of ownership to all of XP's intellectual property. Substantial litigation ensued, eventually resulting in Horizon surrendering its unsupportable claims and XPG's surrender of the Grove facility, all as part of a global compromise between the Debtors and Horizon Batteries that is memorialized by [Doc #419] Agreed Order Approving Settlement Of Debtors' Motion To Determine The Existence Of A "Bona Fide" Dispute Pursuant To 11 U.S.C. § 363(F)(4) By And Among Debtors And The HB Parties, dated March 19, 2014. ("**Horizon Settlement Order**"). The terms of the Horizon Settlement Order resolved the claims of Horizon Battery to the Debtors' IP in the Debtors' favor, and thus paved the way for the Younicos sale.

E. The ACE D&O Policy "Fiasco"

Prior to March 25, 2014, the Debtors determined that it was in the best interest of the estates and creditors to maintain and obtain ongoing D&O insurance coverage. A price of $70,000 was quoted by ACE for $5 million in D&O coverage, however, there was no quotation by ACE, the broker, or ACE's counsel of any related additional cost in excess of the premium payment, and in particular, no quotations that the D&O policy would cost, according to the position later taken by ACE/Westchester, another $5 million because its terms included a disguised assumption of the Debtor's indemnity agreement on the $5 million ACE/Westchester Bond as an administrative expense claim.

Without actual knowledge of the disguised indemnity assumption, the Debtors sought and obtained Court approval of their purchase of the D&O coverage. ACE/Westchester's attorney attended the hearing but remained silent when the total cost of the premium was quoted as being only $70,000. The Court approved the purchase and Debtors bound the coverage by paying the premium.

Within a few hours of the hearing, ACE demanded that no more administrative claims be paid due to its success in slipping the indemnity assumption past the Debtors, their counsel, the Committee, the US Trustee, all creditors, and the Court. The demands made by the Debtors Insurer would have, if true, resulted in the estates becoming administratively insolvent by elevating ACE's pre-petition unsecured contingent bond debt of potentially $5 million into a post petition administrative claim.

Substantial litigation ensued. The Debtors moved for reconsideration and ACE and Debtors each argued their respective positions. The Court resolved the dispute by cancelling the ACE D&O Policy and ordering ACE to refund the premium.

F. Auction and Sale of Substantially All Assets of the Debtors to Younicos

Debtors filed, on the second business day after the Petition Date, their Motion seeking approval of the sale of substantially all of their assets to the highest bidder. The Court entered a Bid Procedures Order on February 10, 2014 [Doc #157]. The Bid Procedures Order approved certain auction sale procedures for the Debtors' proposed sale of substantially all of their assets, as well as authorized the Debtors to conduct an auction of the assets to be held on March 20, 2014 in Dallas, Texas, which was extended ultimately to April 7, 2014 in Austin, Texas.

Younicos was the winning bidder. The Sale of the Purchased Assets to Younicos was a sale free and clear of liens, claims, encumbrances and interests, with any such liens, claims, encumbrances and interests to attaching to the Sale Proceeds in the same order of priority as they existed before the Sale. The Sale Proceeds will be distributed in accordance with the terms and provisions of the Plan. The Bankruptcy Court approved the sale by Order dated April 11, 2014 [doc # 535]. The transaction closed on April 14, 2014.

The sale was of substantially all operating assets of XPS and XPI without an allocation among the respective Debtors, for a total consideration of $14 million. The resulting net cash was disbursed as follows:

[see following page]

YOUNICOS SALE DISBURSEMENT SCHEDULE

PAYMENT	AMOUNT	COMMENTS
Purchase Price	14,000,000.00	
Hays CISD	79,265.00	2013 Taxes paid in full
Hays County	45,131.40	2013 Taxes paid in full
Hays CISD and Hays County	36,761.38	2014 estimated Prorated Taxes for period from Jan. 1 thru April 13.
Horizon Technology Finance	3,047,364.77	Payoff pre petition loan
Horizon Technology Finance	6,900,041.67	Payoff DIP loan
Silicon Valley Bank	252,055.51	Payoff pre-petition debt. This payoff amount to SVB was greater than the debt then due; the additional sum was a reserve of approximately $36,000 to cover SVB's future potential legal fees and expenses under their loan agreements with the Debtors. SVB eventually refunded to the Debtors $16,012.15
Alan Gotcher	60,000.00	management incentive payments – deducted from funds otherwise payable to Horizon Technology Finance
Ken Hashman	40.000.00	management incentive payments— deducted from funds otherwise payable to Horizon Technology Finance
Shared Investments IV , LLC	200,000.00	break-up fee payable to competing bidder
Gordian Group	907,490.75	fees and expenses (initially deposited to DIP account escrow pending court approval, which was later obtained)
Xtreme Power Estates, remainder of purchase price	2,471,889.52	

G. Other Significant Events and Orders Entered During the Case

1. Appointment of the Official Committee of Unsecured Creditors

On February 6, 2014, the United States Trustee appointed an Official Joint Committee of Unsecured Creditors (the "Committee") for the estate of XPS, which was composed of the following parties:

CHAIR:
Margaret M. McKay, Toshiba International Corporation
MEMBERS:
Robert J. Bruckmann, Dynapower Company LLC
Michelle Romonek, Control Panels USA, Inc.

The Committee retained as its counsel the law firm of Hohmann Taube & Summers LLP.

2. Proof of Claim Bar Date

The Court established May 27, 2014, as the last date for holders of Claims to file proofs of claim.

3. Estate Professionals

Pursuant to orders entered by the Bankruptcy Court, the Debtor retained the following professionals to represent them in this chapter 11 case:

Name	Description of Services
Jordan, Hyden, Womble, Culbreth & Holzer, P.C.	Bankruptcy Counsel to the Debtors
Gordian Group	Financial consultants for the Debtors
Baker Botts LP	Debtors' Special Counsel for Transactions
Bracewell & Giuliani LLP	Debtors' Special Counsel For Certain Litigation Matters
Griggs & Spivey	Debtors Special Counsel for ECI litigation
Fish & Richardson P.C.	Debtors Special Counsel for patents and trademarks
The Wenmohs Group	Tax returns

4. Hiring Of Former Employees to Operate Debtor

Upon consummation of the sale to Younicos all the Debtors employees were hired by Younicos. The Debtors therefore obtained a Court order (Doc #630) permitting them continue the services of the Debtors' management and necessary staff, on an hourly-billing basis, for the

purpose of the Debtors' continued operations, accounting and reporting, with submission of a monthly invoice for all services provided.

H. The Allocation and Expert Motions

1. Allocation

The Debtors operated their business through distinct corporate entities governed by one board and overlapping officers, and toward a common goal of developing, installing, and operation of battery systems for alternative energy projects.

XPI is the corporate parent to both XPS and XPG, and furnished almost all of the capital utilized by its subsidiaries to acquire, develop and then utilize the developed products. XPI, in furnishing this capital, accrued on its books approximately $72 million in an inter-corporate receivable from XPS and approximately $28 million inter-corporate receivable due from XPG. From time to time XPI would receive title and ownership of the underlying patents obtained from the work on XPS, and hold such title while XPS continued to utilize the patents in its operations. XPI's assets thus consist primarily of (i) the owned patents; (ii) the inter-corporate accounts receivables;[5] and (iii) the stock of its two subsidiaries. XPI did not have ongoing operations or employees working directly on XPI day-to-day business and so had no trade or vendor debt. However, XPI did incur in excess of $100 million in debt and equity through various loans and equity capital financings that were reflected in secured notes with collateral directly securing those loans, as well as convertible subordinated notes also collateralized, and several classes of XPI stock.

XPS was the development and operating subsidiary and the recipient of most of the capital raised by XPI, as reflected by the $72 million account payable to XPI. XPS operated its business in Kyle Texas where it developed, produced, and maintained the patents and significant other software and proprietary trade secrets, and operated the various projects using the XACT system, including Duke Notrees, First Wind, and other projects. XPS owned all of the "hard" assets used in its business, including the physical plant at Kyle, Texas, furniture, fixtures, inventory, and certain lease rights. XPS employed all of the personnel and staff used to develop the intellectual property and to construct and operate the project sites. XPS, on the petition date, owed approximately $4.5 million in vendor, trade and other indebtedness arising from its operations. In addition, XPS owed ad valorem taxes on its assets. XPS had only a few secured creditors. Silicon Valley Bank and Horizon Finance were collectively owed approximately $8 million on the petition date, and loaned the Debtors another $2.5 million in DIP financing during the Chapter 11 cases; Zuniga Property held the mortgage on the Debtor's building in Kyle.

All XPS secured debt was paid in full (or assumed and assigned), from proceeds of the sale to Younicos.

XPG was the battery manufacturing subsidiary producing the lead acid batteries used in some of the XPS project sites. XPG operated in Grove Oklahoma at a factory leased from Horizon Battery, and used certain IP of Horizon Battery. Over a year prior to filing Chapter 11

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[5] XPI did not attempt to secure its inter-corporate account receivable from either XPS or XPI and as a result, is an unsecured creditor, although the larges, to both XPS and XPG estates. Both XPS and XPG have vendor, trade and other creditors resulting from their operations.

XPG ceased operations at the Horizon Battery leased facility, and abandoned the use of the Horizon Battery technology and license, and for all practical purposes ceased operations. The only assets remaining of XPG is manufacturing equipment at the Grove plant. XPG, like XPS, had only 2 significant secured creditors on the Petition Date (being SVB and Horizon Finance) and approximately $50,000 in vendor, trade an other unsecured debt. As noted above, XPG has an inter-corporate account payable due XPI in the amount of approximately $28 million.

There were various levels of trade and vendor unsecured debt that were in competition with claims by XPI on its unsecured inter-corporate unsecured debt, and the allocation of those unsecured claims to the proceeds of the liquidation of the Debtors' assets. Conversely, there were outstanding secured claims that may apply to the sale proceeds and an allocation is necessary to determine the extent of value to support those various secured claims.

The Debtors determined that an allocation of the right and entitlement to the Younicos sales proceeds as between the Debtors must be accomplished to determine the relative rights of each class of creditor as among the three Debtors. Accordingly, the Debtors filed two related motions seeking to determine the proper allocation of the proceeds as and among each respective estate. One sought an allocation of the proceeds, the second sought the appointment of experts on valuation if the allocation was to be litigated.

2. Experts

The Debtors viewed the task of allocation of sale proceeds to, or by and among, these Debtors, as a very complex analysis requiring experts having particular knowledge of valuation of intellectual property, corporate governance, and corporate accounting. The Debtors and the Debtors' creditors have diverse interests. The three entities' respective Chapter 11 cases are represented by the same general counsel. On this issue of allocation, there is certainly a potential for a conflict of interest as among these three Debtors; or to be more specific, there is a conflict as among XPI and XPS as to the value of the respective intellectual property (the hard asset value title in XPS are likely not an issue).

Only one of these entities, XPS, has an active and serving Official Creditors' Committee, primarily because XPS has the vast majority of the non-owner-related vendor or trade debt (this include secured lenders that also own subordinated notes and equity). XPS has approximately $4.5 million in trade and vendor debts, all secured, administrative and tax claims having been paid from the § 363 Sale closing.

The existence of the intercompany debts raises many issues particularly in light of the fact that this amount of unsecured debt due each subsidiary to will dwarf other unsecured debt of the particular subsidiary. Thus:

a. subordination of the XPI (the parents') debt may be an action brought by the Unsecured Creditors' Committee of XPS;

b. Debtors considered whether to seek substantive consolidation of the three estates, in the event that allocation became impractical or inappropriate; and

c. the estates ownership of director claims for breach of duty and an evaluation of the proper parties to participate and prosecute such claims, if any.

Issues of priority, subordination, consolidation, and related claims as among these three Debtors may have been determined in the ordinary claims process. However, integral to any effort to determine the allowance and priority of claims in each respective estate, the Debtors creditors, as well as management, were not in agreement on the allocation of proceeds of the sale of the Debtors' property.

I. The Allocation Mediation And the Mediation Settlement

At a status hearing on the Allocation and Expert Motions the Court ordered the cases to mediation and approved retention of former bankruptcy judge Leif Clark as mediator. The parties attending the four day mediation were as follows:

- Debtors and counsel
- Committee counsel
- Duke/Notrees and counsel
- First Wind and counsel
- Michael Breen and counsel
- Austin Police Retirement System and counsel
- Langara and counsel
- Counsel for Dynapower
- Sail Capital and counsel
- Counsel for Ace/Westchester

Judge Clark and most of the mediation participants invested a great deal of time and effort trying to finally resolve the case, and succeeded, resulting in the Mediation Settlement that is Plan Exhibit 1. The Mediation Settlement is a compromise and settlement of multiple disputed claims, including but not limited to the allocation of asset sale proceeds as between the Debtors' estates and ownership of assets between the Debtors' estates, and distributions to creditors. In making the settlement all parties were aware that the XPS Schedule B shows hard assets at $3,266,083 that were sold to Younicos — software licenses (XPS as licensee), several vehicles, FF&E, computer hardware, inventory. XPS schedule A shows the building in Kyle at net value after deduction for liens of approximately $120,000, which was also sold to Younicos, who assumed the mortgage. Subtracting these sums from the $14 million sale price would leave $10.6 million to be allocated to the intellectual property of XPI and XPS. All mediation participants were aware that an expert or the Court might determine that the split would be 50/50; or, possibly, that an XPI expert could opine that it was all XPI, and an XPS expert could opine that it all belongs to XPS. More importantly, all participants understood that the cost to the estates to litigate valuation and allocation with a battle of the experts would mean that all the estates' remaining cash would be gone by the time a decision was reached. There were also many unresolved allocation issues to consider on the expenses side — how to allocate between the estates the payoffs to Horizon Tech Finance and SVB, the break up fee to Shared Investments IV LLC, Gordian's fees, other professionals fees, US Trustee fees, and costs of operating the company.

On June 25, 2014, the mediation participants were provided with an estimate that the expected assets of the estate as of October 1 would be as follows:

Cash	$1,419,675
Grove Equipment	$1,500,000 contract to sell to Horizon Battery, but Horizon is in breach and outcome uncertain
ECI lawsuit	$5.6 million (less prior settlement, plus attorneys fees) damages model less 40% contingency fee but it's a lawsuit with uncertain outcome
Langara preference	$755,000, but hotly contested and significant issue of collectability
D&O Insurance	$5 million wasting policy; no claims have been made
IP Licensing rights	First Wind and Duke-Notrees, but they believe nothing is owed

The Mediation Agreement was reached in light of these financial realities.

J. XPG Equipment – Horizon Battery Contract and Breach

One of the provisions of the Horizon Settlement Order calls for an inventory of the XP Owned Equipment and subsequent disposition of the XP Owned Equipment. After investigation, Horizon Battery and XP agreed that the list of the XP Owned Equipment that was attached to the XPG Bankruptcy Schedules as Exhibit B-29 is substantially accurate. Under these provisions, Horizon Battery made an offer of $1.5 million to purchase the XP Owned Equipment; XP countered by adding a condition for an earnest money deposit; and Horizon Battery accepted the counteroffer on April 23, 2014. However, after several months, the parties had not been able to agree on the form of the transaction documents to memorialize their contract, and so the sale was not presented to this Court for approval and has not closed.[6]

The Horizon Settlement Order allowed the Bankruptcy Court to order mandatory, non-binding mediation with respect thereto on motion of any party, which Debtors subsequently requested, and the Court ordered on July 14, 2014 (Order, Doc #731). The mediation commenced on July 24, 2014, and was continued by agreement of the parties; however, an impasse was reached when Horizon Battery unequivocally and materially repudiated the parties contract, and on September 4, 2014, the mediation was concluded.

K. Grove Equipment Auction

As a result of Horizon Battery's breach and failure to close on the contract to purchase the XPG equipment in Oklahoma, XPG obtained Court approval to sell the equipment at auction. The auction is currently in progress, with a bid deadline of November 7, and a Court hearing scheduled to approve the wining bid(s) on November 17. XPG and Horizon Battery have

[6] An additional provision of the Horizon Settlement Order called for XP to deliver to Horizon Battery the Resolution License. The parties were unable to agree on the form of the Resolution License, and so it has not yet been delivered. On April 14, 2014, XP sold the patents that were subject to the Resolution License to Younicos, so that, currently, Younicos is the record owner of those patents, not XP. XP remains willing to issue the Resolution License if agreement on the form can be reached (or on whatever form the Court orders, as provided for in the Horizon Settlement Order); however, XP understands that Younicos is also willing to issue the Resolution License under certain conditions.

continued their discussions but there is no resolution. The auction outcome will serve to liquidate the dollar amount of XPG's damage claim against Horizon Battery.

L. XDT, LLC

XDT, LLC, is a Texas limited liability company that is 25% owned by Debtor XPI. Any all rights, claims, and interest of XPI in XDT, LLC, are fully preserved under the Plan and transferred to the Plan Trust on the Effective Date.

M. The China Unit

The China Unit is XPS inventory that was not included in the sale to Younicos. Younicos made an offer of $80,000 that XPS accepted, subject to the right of other parties to make higher and better offers, but non other offers were made. The Court approved the sale by order dated October 20, 2014 [Doc #828].

N. The Eaton Invertor for the KIUC IV Contract

Prior to the bankruptcy Eaton provided XP with an inverter under a loaner agreement. XP determined to use the inverter in the KIUC IV contract and billed and collected from KIUC for the inverter. At time of filing, the Eaton invertor was located at XP's Kyle facility. The Eaton inverter was not sold to Younicos, and Younicos agreed in the Purchase Agreement to maintain custody until ownership was resolved. Under the terms of the loaner agreement, the invertor never belonged to XP, and so was not sold to KICU; it still belongs to Eaton.

O. Federal Income Tax Returns

The Debtors file consolidated federal income tax returns under XPI. The Debtors have retained The Weymouth's Group to prepare their 2013 and 2014 returns. The 2013 return was due 3/15/2014 and no extension was obtained, so is currently past due; however Debtors believe no tax is due given their significant losses in 2013. 2014 is likely to be the same.

P. Tax Allocations From Younicos Sale

Debtors and Younicos agreed in their Purchase and Sale Agreement to defer the determination on how to allocate the proceeds of the sale in April, 2014, for tax purposes. As of the date of this disclosure statement the tax allocation amounts have not been made.

Q. 401k Plan

After the sale was completed in April, 2014, Younicos assumed in full all of the Debtors' obligations under the Debtors' 401k Plan for its employees, although the Purchase and Sale Agreement did not call for such assumption. As a result, Debtor have no further obligations or liabilities in connection with the 401k Plan.

R. Accounts Receivable

The XPS Monthly Operating Report shows trade accounts receivable of $252,200, all over 90 days past due. The details are as follows:

XP Outstanding A/R - June 30 2014		
Toshiba	$171.3	for drawings on Beckjord proj - XP has outstanding A/P with Toshiba of $752K
First Wind	$33.4	for mats/svcs to secure Kahuku site after catastrophic event
KIUC	$21.9	Q2-14 O&M svcs billing - XP went into bankruptcy - no pmt or svcs to provided
Energy Xtreme	$13.5	for batteries - cust refusing to pay
Castle & Cook (Lanai)	$7.7	disputed by cust due to performance concerns
Absolute Solar	$1.8	consulting svcs
Diamond Gen	$2.6	consulting svcs
	$252.2	

Of these receivables on the books of XPS, the Toshiba and First Wind amounts are subject to set offs that exceed the amount of the receivable and so have no value. The KICU amount should not be on the Debtors books at all and will be corrected, as it arose from a bill for monitoring services that were to occur during a time period after XP sold the business to Younicos. The other amounts remain assets of the XPS estate and will either be collected or transferred to the Plan Trust for the Trustee to seek to collect.

S. Ad Valorem Tax Escrows and Payment

At closing of the Younicos sale Debtors paid in full all prior year ad valorem property taxes, and also escrowed the estimated amount of their pro rate share of 2014 taxes. The amounts for 2014 as determined later are as follows:

Total personal property bill: 114,257.88
Total real property bill: 20,685.03
Total tax bill (real & personal): $134,942.92

Pro-rata percentage owed by Xtreme: 103/365 = 28%
134,942.92 X .28 = 37,784.01 – Total owed by Xtreme

Amount in escrow: 36,761.38
37,784.01
-36,761.38
1,022 Additional sums owed by Xtreme (not in escrow)

The Debtors will pay the additional taxes in the ordinary course of business prior to confirmation of the Plan.

T. The Debtors' Current Financial Picture

1. Schedules and Statements of Financial Affairs

On February 10, 2014, the Debtors filed their Schedules of Assets and Liabilities ("Schedules") and their Statements of Financial Affairs ("SOFAs"). Doc ## 160, 161, 162, 163, 164, 165.

On November ____, 2014, the Debtors filed their Amended Schedules and SOFAs. Doc ## ______________________.

Copies of the Debtors' Schedules and SOFAs may be viewed online any time through the Bankruptcy Court's PACER System at *www.txs.uscourts.gov*.

2. Monthly Operating Reports

The Debtors Monthly Operating Reports for the month ended September, 2014, are attached hereto as Exhibit D.

U. Preference and Other Bankruptcy Litigation

1. Preference Actions

Under the Bankruptcy Code, a Debtors' bankruptcy estate may recover certain preferential transfers of property, including Cash, made while insolvent during the 90 days immediately prior to the filing of its bankruptcy petition with respect to pre-existing debts, to the extent the transferee received more than it would have in respect of the pre-existing debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. In the case of "insiders," the Bankruptcy Code provides for a one (1) year preference period.

There are certain defenses to preference recoveries. Transfers made in the ordinary course of the Debtors' and transferee's business according to the ordinary business terms in respect of debts less than 90 days before the filing of a bankruptcy are not recoverable. Additionally, if the transferee extended credit subsequent to the transfer (and prior to the commencement of the bankruptcy case), such extension of credit may constitute a defense to recovery, to the extent of any new value, against an otherwise recoverable transfer of property. If a transfer is recovered by the estate, the transferee has an Unsecured Claim against the debtor to the extent of the recovery.

The Debtors' Schedules and SOFA list potentially preferential transfers made within the preference period. Creditors should be aware that payments received within the preference period may be recoverable in a subsequent action by the Debtors' Estate.

2. Fraudulent Transfers

Under the Bankruptcy Code and various state laws, the Debtors may recover certain transfers of property, including the grants of security interests in property, made while insolvent or which rendered the Debtors insolvent.

3. Potential Recoveries of Transfers

Any and all avoidance actions and rights pursuant to sections 542, 543, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and all causes of action under state, federal or other applicable law shall be retained and may be prosecuted or settled by the Plan Trustee. With respect to any potential avoidance actions, the likelihood of successful recovery must be

weighed against the legal fees and other expenses that would likely be incurred in determining whether to pursue legal remedies for the avoidance and recovery of any transfers.

ARTICLE VI
VOTING PROCEDURES AND CONFIRMATION REQUIREMENTS

A. Ballots and Voting Deadline

A ballot for voting to accept or reject the Plan is enclosed with this Disclosure Statement, and has been mailed to holders of Claims and Interests entitled to vote. After carefully reviewing the Disclosure Statement and all exhibits, including the Plan, each holder of a Claim or Interest entitled to vote should indicate its vote on the enclosed ballot. All holders of Claims or Interests entitled to vote must (i) carefully review the ballot and instructions thereon, (ii) execute the ballot, and (iii) return it to the address indicated on the ballot by the Voting Deadline for the ballot to be considered.

The Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received by the Debtors' counsel n**o later than ___, 2014 at __:00 p.m. Central Time,** at the following address:

ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED.

B. Holders of Claims and Interests Entitled to Vote.

Except as otherwise provided in the Plan, any holder of a Claim against the Debtors whose claim is impaired under the Plan is entitled to vote, if either (i) the Debtors have scheduled the holder's Claim at a specific amount other than $0.00 (and such Claim is not scheduled as "disputed," "contingent," or "unliquidated") or (ii) the holder of such Claim has filed a Proof of Claim on or before the deadline set by the Bankruptcy Court for such filings in a liquidated amount. Any holder of a Claim as to which an objection has been filed (and such objection is still pending as of the time of confirmation of the Plan) is not entitled to vote, unless the Bankruptcy Court (on motion by a party whose Claim is subject to an objection), temporarily allows the Claim in an amount that it deems proper for the purpose of accepting or rejecting the Plan. Such motion must be heard and determined by the Bankruptcy Court before the first date set by the Bankruptcy Court for the Confirmation Hearing of the Plan. In addition, the vote of a holder of a Claim may be disregarded if the Bankruptcy Court determines that the holder's acceptance or rejection was not solicited or procured in good faith or in accordance with the applicable provisions of the Bankruptcy Code.

C. Bar Date for Filing Proofs of Claim

The Bankruptcy Court established a bar date for filing proofs of claim or interests in these chapter 11 cases of May 27, 2014. The Bankruptcy Court further established a bar date for filing proofs of claim in these chapter 11 cases by governmental units of July 21**,** 2014. Timeliness or other substantive issues which may affect the ultimately allowability of a particular claim have not been considered in connection with classification. The Plan provides a period of 120 days after the Effective Date for the Plan Trustee to object to claims.

D. Definition of Impairment

Under Bankruptcy Code section 1124, a class of Claims or Interests is impaired under a plan of reorganization unless, with respect to each Claim or Interests of such class, the plan:

leaves unaltered the legal, equitable, and contractual rights of the holder of such Claim or Interest; or

notwithstanding any contractual provision or applicable law that entitles the holder of a Claim or Interest to demand or receive accelerated payment of such Claim or Interest after the occurrence of a default -

(a) cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default of a kind specified in Bankruptcy Code section 365(b)(2);

(b) reinstates the maturity of such claim or interest as it existed before the default;

(c) compensates the holder of such claim or interest for damages incurred as a result of any reasonable reliance on such contractual provision or applicable law; and

(d) does not otherwise alter the legal, equitable, or contractual rights to which such Claim or Interest entitles the holder of such Claim or Interest.

E. Classes Impaired Under the Plan

Claims in Classes 1, 2, 3B, 3C, and 4 are not impaired under the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, holders of Claims within Classes 1, 2, 3B, 3C, and 4 are conclusively presumed to have accepted the Plan, and therefore are not entitled to vote to accept or reject the Plan.

All other Classes are either Impaired under the Plan and are entitled to vote on the Plan, or are deemed to reject the Plan.

F. Vote Required for Class Acceptance

The Bankruptcy Code defines acceptance of a plan by a class of creditors as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims of that class that actually cast ballots for acceptance or rejection of the Plan; that is, acceptance takes place only if creditors holding claims at least two-thirds (2/3) in amount of the total amount of claims and more than one-half (1/2) in number of the Creditors actually voting cast their ballots in favor of acceptance.

G. Information on Voting and Ballots

1. Transmission of Ballots to Creditors and Interest Holders

Ballots are being forwarded to all holders of Claims and Interests entitled to vote. Those holders of Claims whose Claims are unimpaired under the Plan are conclusively presumed to have accepted the Plan under Bankruptcy Code section 1126(f), and therefore need not vote with regard to the Plan.

2. Ballot Tabulation Procedures

For purposes of voting on the Plan, the amount and classification of a Claim or Interest and the procedures that will be used to tabulate acceptances and rejections of the Plan shall be exclusively as follows:

a) If no Proof of Claim has been timely filed, the voted amount of a Claim shall be equal to the amount listed for the particular Claim in the Schedules of Assets and Liabilities, as and if amended, to the extent such Claim is not listed as "contingent," "unliquidated," or "disputed," and the Claim shall be placed in the appropriate Class, based on the Debtors' records, and consistent with the Schedules of Assets and Liabilities and the Claims registry of the Clerk of the Bankruptcy Court (the "Clerk");

b) If a Proof of Claim has been timely filed, and has not been objected to before the expiration of the Voting Deadline, the voted amount of that Claim shall be as specified in the Proof of Claim filed with the Clerk;

c) Subject to subparagraph (d) below, a Claim or Interest that is the subject of an objection filed before the Voting Deadline shall be disallowed for voting purposes;

d) If a Claim has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, the voted amount and classification shall be that set by the Bankruptcy Court;

e) If a holder of a Claim or Interest or its authorized representative did not use the Ballot form provided by the Debtors, or the Official Ballot Form authorized under the Federal Rules of Bankruptcy Procedure, such vote will not be counted;

f) If the Ballot is not received by the Balloting Agent on or before the Voting Deadline at the place fixed by the Bankruptcy Court, the Ballot will not be counted;

g) If the Ballot is not signed by the holder of a Claim or Interest or its authorized representative the Ballot will not be counted;

h) If the individual or institution casting the Ballot (whether directly or as a representative) was not the holder of a Claim or Interest on the Voting Record Date (as that term is defined below), the Ballot will not be counted;

i) If the holder of a Claim or Interest or its authorized representative did not check one of the boxes indicating acceptance or rejection of the Plan, or checked both such boxes, the Ballot will not be counted;

j) Whenever a holder of a Claim or Interest submits more than one Ballot voting the same Claim(s)or Interest(s) before the applicable deadline for submission of Ballots, except as otherwise directed by the Bankruptcy Court after notice and a hearing, the last such Ballot shall be deemed to reflect the voter's intent and shall supersede any prior Ballots.

3. Execution of Ballots by Representatives

If a Ballot is signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations, or others acting in a fiduciary or representative capacity, such persons must indicate their capacity when signing and, at the Debtors' request, must submit proper evidence satisfactory to the Debtors of their authority to so act.

4. Waivers of Defects and Other Irregularities Regarding Ballots

Unless otherwise directed by the Bankruptcy Court, all questions concerning the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of Ballots will initially be determined by the Debtors, subject to review by the Bankruptcy Court, whose determination will be final and binding. The Debtors reserves the right to reject any and all Ballots not in proper form, the acceptance of which would, in the opinion of the Debtors or their counsel, be unlawful. The Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot, which waiver shall not be deemed to have any effect on any other Ballot. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine(s). Neither the Debtors nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liability for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until any irregularities have been cured or waived. Ballots previously furnished, and as to which any irregularities have not subsequently been cured or waived, will be invalidated.

5. Withdrawal of Ballots and Revocation

Any holder of a Claim or Interest in an impaired Class who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to counsel for the Debtors at any time before the Voting Deadline.

To be valid, a notice of withdrawal must: (i) contain the description of the Claims or Interests to which it relates and the aggregate principal amount, represented by such Claims or Interests; (ii) be signed by the holder of the Claim or Interest in the same manners as the Ballot; and (iii) be received by counsel for the Debtors in a timely manner at the addresses set forth herein. The Debtors expressly reserve the absolute right to contest the validity of any such withdrawals of Ballots.

Unless otherwise directed by the Bankruptcy Court, a purported notice of withdrawal of Ballot that is not received in a timely will not be effective to withdraw a previously furnished Ballot.

Any holder of a Claim or Interest who has previously submitted a properly completed Ballot before the Voting Deadline may revoke such Ballot and change its vote by submitting to the Balloting Agent before the Voting Deadline a subsequent, properly completed Ballot for acceptance or rejection of the Plan.

H. Confirmation of Plan

1. Solicitation of Acceptances

NO REPRESENTATIONS OR ASSURANCES, IF ANY, CONCERNING THE PLAN ARE AUTHORIZED BY THE DEBTORS OR ANY OTHER PARTY, OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE BY ANY PERSON TO SECURE YOUR VOTE FOR OR AGAINST THE PLAN (OTHER THAN THOSE CONTAINED IN THIS DISCLOSURE STATEMENT) SHOULD NOT BE RELIED ON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTORS.

Under the Bankruptcy Code, a vote for acceptance or rejection of a plan may not be solicited unless the claimant has received a copy of a disclosure statement approved by the Bankruptcy Court prior to, or concurrently with, such solicitation. This solicitation of votes on the Plan is governed by section 1125(b) of the Bankruptcy Code. Violation of section 1125(b) of the Bankruptcy Code may result in sanctions by the Bankruptcy Court, including disallowance of any improperly-solicited vote.

2. Confirmation Hearing

Pursuant to section 1128(a) of the Bankruptcy Code, the Bankruptcy Court, after notice, may hold a hearing on Confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to Confirmation of the Plan.

The Confirmation Hearing will commence on ___, 2014 at _:_0 _.m. prevailing Central Time before the Honorable H. Christopher Mott, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Western District of Texas, Austin Division, Homer J. Thornberry Federal Judicial Bldg., 903 San Jacinto Blvd., Austin, Texas. The Debtors may continue the confirmation hearing from time to time without further notice other than an adjournment announced in open court or a notice of adjournment filed with the bankruptcy court and served on the Master Service List and the entities who have filed an objection to the Plan, without further notice to parties in interest. The Bankruptcy Court, in its discretion and before the Confirmation Hearing, may put in place additional procedures governing the Confirmation Hearing. The Plan may be modified, if necessary, prior to, during, or as a result of the confirmation hearing, without further notice to parties in interest.

The Plan Objection Deadline is ___, 2014, at 5:00 p.m. prevailing Central Time. All objections to the Plan must be filed with the Bankruptcy Court and served on the Debtors and certain other parties in interest in accordance with the Disclosure Statement Order so that they are received on or before the Plan Objection Deadline.

If the Plan is rejected by one or more impaired Classes of Claims or Interests, the Bankruptcy Court may still confirm the Plan, or a modification thereof, under Bankruptcy Code section 1129(b) (commonly referred to as a "cramdown") if it determines, among other things, that the Plan does not discriminate unfairly and is fair and equitable with respect to the rejecting Class or Classes of Claims or Interests impaired under the Plan. The procedures and requirements for voting on the Plan are described in more detail below.

3. Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court shall determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court shall enter an Order confirming the Plan. For the Plan to be confirmed, section 1129 of the Bankruptcy Code requires that:

a) The Plan complies with the applicable provisions of the Bankruptcy Code;

k) The Debtors, as proponents of the Plan, have complied with the applicable provisions of the Bankruptcy Code;

l) The Plan has been proposed in good faith and not by any means forbidden by law;

m) Any payment or distribution made or promised by the Debtors, or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in connection with the case, or in connection with Plan and incident to the case, has been approved by or is subject to the approval of, the Court as reasonable;

n) The Debtors have disclosed, to the extent known, the identity and affiliation of any individual proposed to serve, after confirmation of the Plan, as a director, officer or voting trustee of the Debtors, affiliates of the Debtors participating in a joint plan, or a successor to the Debtors under the Plan; and the appointment to, or continuance in, such office of such individual is consistent with the interests of holders of Claims and Interests and with public policy; and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider;

o) Any government regulatory commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtors has approved any rate change provided for in the Plan, or such rate change is expressly conditioned on such approval;

p) With respect to each impaired Class or Claims or Interests, either each holder of a Claim or Interest of the Class has accepted the Plan, or will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would so receive or retain if the Debtors were liquidated on such date under chapter 7 of the Bankruptcy Code. If Bankruptcy Code section 1111(b)(2) applies to the Claims of such Class, each holder of a Claim of that Class will receive or retain under the Plan on account of that Claim property of a value, as of the Effective Date, that is not less than the value of that holder's interest in the estate's interest in the property that secures such Claim;

q) Each Class of Claims or Interests has either accepted the Plan or is not impaired under the Plan;

r) Except to the extent that the holder of a particular Administrative Claim or Priority Non-Tax Claim has agreed to a different treatment of its Claim, the Plan provides that Allowed Administrative Claims and Priority Non-Tax Claims shall be paid in full on the Effective Date or on the date such claim is Allowed by Final Order;

s) If a Class of Claims or Interests is impaired under the Plan, at least one such Class of Claims or Interests has accepted the Plan, determined without including any acceptance of the Plan by any insider;

t) Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan; and

u) All fees payable under Section 1930 of Title 28, as determined by the Court at the hearing on confirmation of the Plan, have been paid or the Plan provides for the payment of all such fees on the Effective Date of the Plan.

The Debtors believe that the Plan satisfies all of the statutory requirements of the Bankruptcy Code for confirmation and that the Plan was proposed in good faith. The Debtors believe they have complied, or will have complied, with all the requirements of the Bankruptcy Code governing confirmation of the Plan.

4. Acceptances Necessary to Confirm the Plan

Voting on the Plan by each holder of an impaired Claim or Interest is important. Chapter 11 of the Bankruptcy Code does not require that each holder of a Claim or Interest vote in favor of the Plan in order for the Court to confirm the Plan. Generally, to be confirmed under the acceptance provisions of Bankruptcy Code section 1126, the Plan must be accepted by each Class of Claims or Interest that is impaired under the Plan by parties holding at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class actually voting in connection with the Plan. Even if all Classes of Claims and Interest accept the Plan, the Bankruptcy Court may refuse to confirm the Plan.

5. Cramdown

In the event that any impaired Class of Claims or Interests does not accept the Plan, under section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may still confirm the Plan at the request of the Debtors if, as to each impaired Class that has not accepted the Plan, the Plan "does not discriminate unfairly" and is "fair and equitable." A plan of reorganization does not discriminate unfairly within the meaning of the Bankruptcy Code if no Class receives more than it is legally entitled to receive for its Claims or Interests. "Fair and equitable" has different meanings for holders of Secured and Unsecured Claims and equity Interests.

With respect to a Secured Claim, "fair and equitable" means either (i) the impaired secured creditor retains the liens, whether the property subject to such liens is retained by the

Debtors or transferred to another entity, to the extent of its allowed Claim and receives deferred Cash payments totaling at least the allowed amount of its Claims with a present value as of the Effective Date of the Plan at least equal to the value of such creditor's interest in the property securing its liens; (ii) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, with that lien attaching to the proceeds of sale, and such lien proceeds must be treated in accordance with clauses (i) and (iii) hereof; or (iii) the impaired secured creditor realizes the "indubitable equivalent" of its claim under the Plan.

With respect to an Unsecured Claim, "fair and equitable" means either (i) each impaired creditor receives or retains property of a value, as of the Effective Date of the Plan, equal to the amount of its Allowed Claim or (ii) the holders of Claims and equity Interests that are junior to the Claims of the dissenting class will not receive any property under the Plan until the Unsecured Claims are paid in full.

With respect to equity Interests, "fair and equitable" means either (i) each impaired equity Interest receives or retains, on account of that Interest, property of a value, as of the Effective Date, equal to the greatest of the Allowed amount of any fixed liquidation preference to which the holder is entitled, any fixed redemption price to which the holder is entitled, or the value of the equity Interest; or (ii) the holder of any equity Interest that is junior to the equity Interest of that class will not receive or retain under the plan, on account of that junior equity Interest, any property.

In the event at least one Class of impaired Claims rejects or is deemed to have rejected the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired Class of Claims.

The Debtors believe that the Plan does not discriminate unfairly and is fair and equitable with respect to each impaired Class of Claims and Interests.

ARTICLE VII
DESCRIPTION OF THE PLAN

The treatment of, and the consideration to be received by, holders of Allowed Claims against the Debtors pursuant to the Plan shall be in full satisfaction of their respective Allowed Claims against the Debtor.

A. Class 1: Allowed Priority Claims.

Except to the extent that a holder of an Allowed Priority Claim has agreed or agrees to a different treatment of such Claim, each holder of an Allowed Priority Claim shall receive, on account of and in full satisfaction of such Claim, payment in full of the Allowed amount of such Claim, without interest, on the later of (i) thirty (30) days after the Effective Date, or (ii) thirty (30) days after such Claim becomes an Allowed Priority Claim.

Class 1 is Impaired.

Debtors expect payment in full on Allowed Claims in this Class.

Debtors believe the following Class 1 claims may exist in the XPS estate, as shown on the XPS Schedule E, Exhibit E-2, subject to any potential objections that may be brought by the Plan Trustee:

NAME	§507(a)(4) WAGE PRIORITY	AMOUNT ALREADY RECEIVED	REMAINING PRIORITY CLAIM
Gotcher	12,475	9,165	3,310
Hashman	12,475	0	12,475
O'Keefe	12,475	5,592	6,883
Fogarty	12,475	6,077	6,398
Jennings	12,475	3,752	8,723
Persaud	12,475	3,922	8,553
Hardin	12,475	3,150	9,325
Shrock	12,475	3,012	9,463
Taylor	12,475	0	12,475
McLemore	12,475	2,594	9,881
Bowling	12,475	2,452	10,023
TOTAL POTENTIAL §507(a)(4)WAGE PRIORITY CLAIMS			$97,509

B. Class 2: Allowed Secured Tax Claims.

Except to the extent that a holder of an Allowed Secured Tax Claim has agreed or agrees to a different treatment of such Claim, each holder of an Allowed Secured Tax Claim shall retain all Liens securing such Claim until such Claim is fully paid or until such holder otherwise agrees, and shall receive, on account of and in full satisfaction of such Claim, payment in full of the Allowed amount of such Claim with such payment to be made on the later of (i) thirty (30) days after the Effective Date, or (ii) thirty (30) days after such Claim becomes an Allowed Secured Tax Claim. Allowed Secured Tax Claims shall bear interest at the statutory rate until paid in full. If funds were previously escrowed for payment of any Allowed Secured Tax Claim those funds will be used to pay the Allowed Claim; if such escrowed funds exceed the Allowed amount of such claim, them the excess shall be remitted to the Plan Trust and allocated to the Debtor's estates in accordance with the Mediation Settlement.

Class 2 is not Impaired and is deemed to accept the Plan.

Debtors believe that all Class 2 Secured Tax Claims against XPI and XPS have been paid in full. Any such claims against XPG will be paid in full from proceeds of the sale of the XPG equipment.

C. Class 3: Secured Claims.

Secured Claims shall be paid as established by the Mediation Settlement or by order of the bankruptcy court as follows:

Class 3A-XPI Secured Claims.

Class 3A(i) The deemed allowed claims of Michael Breen shall be treated as is provided for in the Mediation Settlement and such distributions shall be made as soon as is practical after the Effective Date.

Class 3A(i) is Impaired. The Claimant is one of the settling parties to the Mediation Settlement.

Class 3A(ii) The deemed allowed claims of Langara Capital Partners, Ltd. and Amabro Investments, Ltd., shall be treated as is provided for in the Mediation Settlement and such distributions shall be made as soon as is practical after the Effective Date.

Class 3A(ii) is Impaired. The Claimant is one of the settling parties to the Mediation Settlement.

Class 3A(iii) The deemed allowed claims of the Austin Police Retirement System ("APRS"), shall be treated as is provided for in the Mediation Settlement and such distributions shall be made as soon as is practical after the Effective Date.

Class 3A(iii) is Impaired. The Claimant is one of the settling parties to the Mediation Settlement.

Class 3A(iv) All other claims against XPI for which status as a Secured Claim was either scheduled or sought, shall receive nothing under the Plan.

Class 3A(iv) is deemed to reject the Plan.

Class 3B - XPS Secured Claims.

This Class consists of the Allowed Secured Claim held by a Secured Claimant against the assets of XPS. Debtor XPS does not believe there remains any Allowed Secured Claims.

Class 3B is Not Impaired.

Class 3C - XPG Secured Claims.

This Class consists of the Allowed Secured Claim held by a Secured Claimant against the assets of XPG. Any such Claims that become Allowed shall be paid in full at closing from the proceeds of the sale of the Grove Equipment.

Class 3C is Not Impaired.

D. Class 4: Silicon Valley Bank.

This Class consists exclusively of any remaining liability to Silicon Valley Bank, if any, The Debtors believe no such liabilities exist.

Class 4 is Not Impaired.

E. Class 5: Allowed Unsecured Claims.

The holders of Class 5 Allowed Unsecured Claims shall receive the following treatment under the Plan:

Class 5A XPI: Holders of Unsecured Claims against XPI receive nothing under the Plan.

Class 5A is deemed to reject the Plan.

Class 5B XPS: Each holder of an Allowed Unsecured Claim against XPS shall receive, on account of and in full and final satisfaction of such Claim, payment from the Plan Trust of cash in an amount equal to the respective pro-rata share of the amount of the funds allocated to the XPS Estate in the Mediation Settlement after payment of all superior claims against XPS, except as provided otherwise in the Mediation Settlement.

Class 5B is Impaired. Distributions in this Class are expected to be small—pennies on the dollar—due to the large number and amount of claims and the relatively small amount of assets available to pay the claims. The Plan Trustee will determine whether to make interim distributions or whether to wait until all litigation assets are resolved and collected.

Class 5C XPG: Each holder of an Allowed Unsecured Claim against XPG shall receive, on account of and in full and final satisfaction of such Claim, payment from the Plan Trust of cash in an amount equal to the respective pro-rata share of the amount of the funds allocated to the XPG Estate in the Mediation Settlement after payment of all superior claims against XPG, except as provided otherwise in the Mediation Settlement.

Class 5C is Impaired. Distributions in this Class are expected to be small—pennies on the dollar—due to the large amount of claims and the relatively small amount of assets available to pay the claims. The Plan Trustee will determine whether to make interim distributions or whether to wait until all litigation assets are resolved and collected.

F. Class 6: Subordinated Claims.

Subordinated Claims against Debtors shall be subordinate for all purposes and shall not be entitled to receive any distribution under the Plan.

Class 6 is deemed to reject the Plan.

G. Class 7: First Wind Claim.

This Class consists of the deemed allowed First Wind Claim as set forth in the Mediation Settlement. Class 7 shall receive a distribution as provided by the Mediation Settlement and such distributions shall be made as soon as is practical after the Effective Date. Class 7 claimant shall retain all rights, if any, to recover under the Debtors' applicable insurance policies, if any.

Class 7 is Impaired.

H. Class 8: Duke/Notrees.

This Class consists of the deemed allowed claims of Duke/Notrees as set forth in the Mediation Settlement. Class 8 shall receive a distribution as provided by the Mediation Settlement and such distributions shall be made as soon as is practical after the Effective Date. Class 8 claims shall retain all rights, if any, to recover on the Bond.

Class 8 is Impaired.

I. Class 9: Dynapower.

This Class consists of the deemed allowed claim of Dynapower as set forth in the Mediation Settlement. Class 9 shall receive a distribution as part of Class 5B. Class 9 claims shall retain all rights, if any, to recover under the Debtors' applicable insurance policies, if any.

Class 9 is Impaired.

J. Class 10: Interests.

This Class consists of all Interests in the Debtors.

Class 10A XPI: This sub-class consists of Interests in XPI. All interests in XPI are cancelled. Class 10A shall receive nothing under the Plan.

Class 10A is deemed to reject the Plan.

Class 10B XPS: This sub-class consists of XPI's 100% member interest in XPS. XPI's interest in XPS is cancelled. Class 10B shall receive nothing under the Plan.

Class 10B is deemed to reject the Plan.

Class 10C XPG: This sub-class consists of XPI's 100% member interest in XPG. Pursuant to ¶ 3 of the Mediation Settlement, Class 10B shall receive on account of its Interest 40% of the net

proceeds realized in the estate of XPG after payment of any taxes, administrative, and priority claims against the XPG estate.

Class 10C is impaired but is an insider and deemed to accept the Plan.

ARTICLE VIII
ACCEPTANCE OR REJECTION OF THE PLAN

A. Impairment Controversies.

If a controversy arises as to whether any Class is Impaired under the Plan, such Class shall be treated as specified in the Plan unless the party challenging the characterization of that Class under the Plan (a) files a motion requesting that the Bankruptcy Court hear and determine such controversy, and (b) the Bankruptcy Court, at a hearing on such motion held at or before the hearing on the Disclosure Statement, determines that such Class should be characterized differently than provided in the Plan.

B. Classes and Claims Entitled to Vote.

Unclassified Claims and Classes 2, 3B, 3C, and 4 are not Impaired under the Plan and are, therefore, deemed to have accepted the Plan without the necessity of voting. All other Classes are either Impaired under the Plan and are entitled to vote on the Plan, or are deemed to reject the Plan.

C. Cramdown.

This section of the Plan shall constitute the Debtors' request, pursuant to section 1129(b) of the Bankruptcy Code, that the Bankruptcy Court confirm the Plan notwithstanding that the requirements of section 1129(a)(8) may not be met.

ARTICLE IX
MEANS FOR IMPLEMENTATION OF THE PLAN

A. Plan Trust.

Creation and Funding of the Plan Trust. On the Effective Date, the Plan Trust shall be formed pursuant to the Confirmation Order, the Plan and the Plan Trust Agreement. All of the Plan Trust Assets, including, without limitation, all cash, the Debtors' Claims asserted in the Avoidance Action Lawsuits, the Debtors Causes of Action, and the Litigation Claims shall be transferred to and vest in the Plan Trust, and, except as otherwise provided in the Plan, the Plan Trust shall be responsible for payment of all Allowed Claims against the Debtors' Estates pursuant to the terms of the Plan and the Plan Trust Agreement. The Plan Trust shall also be responsible for liquidating the Debtors' Avoidance Action Lawsuits, the Debtors Causes of Action, and the Litigation Claims. The proceeds of which shall be used to fund distributions from the Plan Trust as provided in the Plan.

The holders of Allowed Claims against the Debtors shall be the beneficiaries of the Plan Trust, except as otherwise expressly provided in the Plan.

Plan Trust Distributions. Pursuant to the Plan and the Plan Trust Agreement, the Plan Trustee shall administer the Plan Trust Assets and, in addition to paying the obligations of the Plan Trust, distribute the resulting proceeds as required by the Plan and the Plan Trust Agreement.

B. Claims Litigation and Reserves.

The Plan Trustee shall administer the allowance/disallowance of Claims pursuant to the terms of the Plan, including the litigation and/or settlement of such Claims. The Plan Trustee shall retain all of the Debtors' rights, Claims, and defenses with respect to Claims, and to seek disallowance of the Claims (in whole or in part) under the provisions of the Bankruptcy Code. The Bankruptcy Court shall retain exclusive jurisdiction over the allowance/disallowance and/or litigation of all Claims.

Claims provided for in the Mediation Settlement shall be paid in accordance with the terms of the Mediation Settlement and the Plan. If, as, and when other Claims becomes an Allowed Claim, either by agreement between the Plan Trustee and the holder of such Claim or Final Order of the Bankruptcy Court, such Claim shall be an Allowed Claim in the amount set forth in such agreement or Final Order, and the holder of such Claim shall receive, on account of and in full satisfaction of such Claim, Pro Rata payment on the Allowed amount of such Claim in cash from the Plan Trust.

C. The Plan Trustee and The Plan Trust

(a) Plan Trustee. The Committee selected Angelo A. DeCaro, Jr., as the Plan Trustee under the Plan. The Plan Trustee shall be the exclusive trustee of the Plan Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code § 1123(b)(3)(B). The Plan Trustee shall, without further Order of the Bankruptcy Court, be vested with authority and standing to prosecute, defend, settle, or compromise Claims, Avoidance Action Litigation, and Litigation Claims. Matters relating to the appointment, removal, and resignation of the Plan Trustee, and the appointment of any successor Plan Trustee, shall be set forth in the Plan Trust Agreement. The Plan Trustee shall be required to perform his or her duties as set forth in the Plan and the Plan Trust Agreement and shall be entitled to indemnification from the Plan Trust on terms to be set forth in the Plan Trust Agreement.

(b) Plan Trust Governance. The Plan Trust Agreement shall be governed by the Plan Trustee in accordance with its terms and the terms of the Plan and the Confirmation Order.

(c) The Plan is a Motion to Transfer Plan Trust Assets and to Settle Certain Claims. Pursuant to §§ 1123 and 1129 of the Bankruptcy Code, the Plan shall serve to transfer and vest, as of the Effective Date, any and all Plan Trust Assets to the

Plan Trust free and clear of Liens, Claims, encumbrances, and Interests except as otherwise provided in the Plan.

Any objections to such transfer and settlement must be made as an objection to Confirmation of the Plan to be heard at the Confirmation Hearing. Any Person having a Lien, Claim, encumbrance, or Interest in or against any Plan Trust Assets who does not object to the Plan shall be conclusively deemed to have consented to the transfer of such Property to the Plan Trust free and clear of such Lien, Claim, encumbrance, or Interest by failing to object to Confirmation of the Plan.

(d) Corporate Authority. All actions and transactions contemplated under the Plan, including, but not limited to, any certificates, agreements, or other documents to be executed in connection with the conveyance of all of the Plan Trust Assets to the Plan Trust, shall be authorized upon Confirmation of the Plan without the need for further Order, approvals, notices, or meetings of the Debtors' board, managers, or Interest holders. The Confirmation Order shall include provisions dispensing with the need for further approvals, notices, or meetings of any of the Debtors' board, managers or Interest holders and authorizing and directing any officer of the Debtors to execute any document, certificate, or agreement necessary to effectuate the Plan on behalf of the Debtors, which documents, certificates, and agreements shall be binding on the Debtors, the Creditors, and all Interest holders. The Plan Trustee is vested with authority to take any action contemplated by the Plan or the Plan Trust on behalf of the Debtors that would otherwise require the approval of managers or officers of the Debtor. From and after the Confirmation Date, the existing managers and/or officers of the Debtors shall have no further duties or responsibilities with respect to the Debtors or the Plan Trust.

(e) Retention of Professionals. The Plan Trustee shall have the right to retain the services of mediators, attorneys, accountants, and other professionals that, in the discretion of the Plan Trustee, are necessary or reasonable to assist the Plan Trustee in the performance of his or her duties. The reasonable fees and expenses of the Plan Trustee's retained professionals shall be paid in the ordinary course of business by the Plan Trust and shall not be subject to the approval of the Bankruptcy Court.

(f) Compensation of the Plan Trustee. The Plan Trustee's compensation shall be as set forth in the Plan Trust Agreement and shall be paid in the ordinary course of business by the Plan Trust.

(g) Plan Trust Expenses. Subject to the provisions of the Plan Trust Agreement, all costs, expenses, and obligations incurred by the Plan Trustee in administering this Plan, the Plan Trust, or in any manner connected, incidental, or related thereto, in effecting distributions from the Plan Trust hereunder shall be a charged against the Plan Trust Assets remaining from time to time in the hands of the Plan Trustee. Such expenses shall be paid as they are incurred without the need for Bankruptcy Court approval.

(h) Conflicts between the Plan Trust Agreement and the Plan. In the event of any inconsistencies between the Plan Trust Agreement and the Plan, the terms and provisions of the Plan shall control.

(i) Liability; Indemnification. The Plan Trustee shall not be liable for any act or omission taken or omitted to be taken in his or her capacity as the Plan Trustee, other than acts or omissions resulting from such Person's willful misconduct, gross negligence, or fraud. The Plan Trustee may, in connection with the performance of his or her functions, and in his or her sole absolute discretion, consult with attorneys, accountants, and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such professionals. Notwithstanding such authority, the Plan Trustee shall be under no obligation to consult with attorneys, accountants, or his or her agents, and his or her determination to not do so should not result in imposition of liability on the Plan Trustee unless such determination is based on willful misconduct, gross negligence, or fraud. The Plan Trust shall indemnify and hold harmless the Plan Trustee and his or her agents, representatives, professionals, and employees from and against and in respect to any and all liabilities, losses, damages, claims, costs, and expenses, including, but not limited to, attorneys' fees and costs arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the Plan Trust or the implementation or administration of the Plan; provided, however, that no such indemnification will be made to such Persons for such actions or omissions as are a result of willful misconduct, gross negligence, or fraud. Any claim asserted under this provision must be brought in the Bankruptcy Court.

D. Cancellation of Interests in Debtors

On the Effective Date, all Interests in the Debtor, to the extent not already cancelled, shall be deemed cancelled and of no further force and effect.

E. Consummation

For all purposes, substantial Consummation shall occur the instant upon which the first distributions of cash or property have been made to any class of Creditors under this Plan, at which time this Plan shall be deemed substantially consummated and on which date this Plan shall be fully effective.

F. Exculpation.

The Plan Trustee shall be entitled to rely upon advice and opinions of counsel concerning legal matters, the authenticity of affidavits, letters, telegrams, cablegrams and other methods of communication in general use and usually accepted by businessmen as genuine and what they purport to be, and upon this Plan and any schedule, certificate, statement, report, notice or other writing which they believe to be genuine or to have been presented by a proper entity. Except his or her own gross negligence or intentional misconduct, the Plan Trustee shall not (a) be

responsible for any recitals, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any documents executed or delivered in connection with the implementation or consummation of this Plan, (b) be under any duty to inquire into or pass upon any matter or to make any inquiry concerning the validity of any representation or warranty of third parties or the performance by third parties of their obligations or (c) in any event, be liable as such for any action taken or omitted by him or her.

G. Books and Records

The Debtors shall promptly deliver all necessary books and records to the Plan Trustee. The Plan Trustee shall have a duty to preserve the books and records of the Debtors pursuant to any litigation holds including, but not limited to, the ECI Litigation, any D&O Litigation, the pending arbitration related to the First Wind Claim, Horizon Battery matters, and any and all other matters.

ARTICLE X
PROVISIONS REGARDING DISTRIBUTIONS AND OBJECTIONS TO CLAIMS

A. Limitation on Distributions.

Notwithstanding any provision of the Plan to the contrary, no Claimant receiving distributions from the Plan Trust under the Plan shall receive more than the Allowed amount of its Claims in connection with this Plan or the Plan Trust.

B. Date of Distributions.

Any distributions and deliveries to be made to holders of Allowed Claims under this Plan shall be made on the dates specified herein.

C. Means of Payment.

Payments to be made pursuant to this Plan shall be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

D. Recipient of Distributions.

All distributions to holders of Allowed Claims to be made under the Plan shall be made to the holder of such Claim as set forth on the register of Claims on file in the Bankruptcy Court. Changes as to the holder of a Claim on or after the Effective Date shall only be valid and recognized for distribution, voting, and all other purposes if notice of such change is filed with the Bankruptcy Court, in accordance with Bankruptcy Rule 3001, if applicable, any applicable fees are fully paid, and served upon the Plan Trustee.

E. Time Bar to Payments.

Checks issued by the Plan Trustee in respect of Allowed Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Any Claim in respect to such a voided check shall be discharged and forever barred, and the distribution made on account

of such Claim shall be discharged and forever barred, and the distribution made on account of such Claim shall be returned to the these Debtors.

F. No Distributions Pending Allowance of Claims.

No payments or distributions shall be made with respect to all or any portion of a Contested Claim unless and until such Claim becomes an Allowed Claim, as determined by a Final Order or this Plan.

G. Reserves.

If applicable, the Plan Trustee shall establish reserves for Contested Claims that may become Allowed Claims after the Effective Date.

H. Prosecution of Objections.

On and after the Effective Date, the filing, mediation, litigation, settlement or withdrawal of all objections to Claims shall be the right of the Plan Trustee, except that objections to a Fee Claim may be made by parties in interest in accordance with the Bankruptcy Rules.

I. Amendments to Claims; Late Filed Claims.

A Claim or Interest may not be filed with the Bankruptcy Court or amended after the Confirmation Date. Any new or amended Claim filed with the Bankruptcy Court after the Confirmation Date shall be deemed disallowed in full and expunged without need for any action by the Plan Trustee. The holder of a Claim that is disallowed pursuant to this section shall not receive any distribution on account of such Claim or Interest.

ARTICLE XI
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES CLAIMS

A. No Assumption of Executory Contracts or Leases.

The Debtors are not assuming any pre petition Contracts or Leases under § 365 of the Bankruptcy Code.

B. General Rejection of Executory Contracts and Leases.

All executory contracts and unexpired leases that have not been previously assumed or rejected are rejected.

C. Claims for Damages.

Each person who is a party to an executory contract or unexpired lease rejected pursuant to this Article shall be entitled to file, not later than forty-five (45) days after the Effective Date, which is the deemed date of such rejection, a proof of claim for damages alleged to arise from the rejection of the executory contract or unexpired lease to which such person is a

party. The Court shall determine any such objections, unless they are otherwise resolved. All Allowed Claims for rejection damages shall be treated as Class 6 Claims, or, at the Claimant's election, Class 7 Claims. Notwithstanding anything to the contrary herein, the deadline for Duke/Notrees is as set forth in the Mediation Settlement.

ARTICLE XII
PRESERVED CLAIMS

A. Reservation and Retention of Claims and Causes of Action.

Any and all Claims, Causes of Action, cross claims or counterclaims held or assertable by the Debtors or their Estates with respect to (a) the Avoidance Action Lawsuits or Litigation Claims, (b) any Claim or Cause of Action under a policy of liability insurance or otherwise; and (c) any and all Claims, Causes of Action, counterclaims, demands, controversies, against third parties on account of costs, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, liabilities, objections, and executions of any nature, type, or description which the Debtors or their Estates have or may come to have, including, but not limited to, negligence, gross negligence, usury, fraud, deceit, misrepresentation, conspiracy, unconscionability, duress, economic duress, defamation, control, interference with contractual and business relationships, conflicts of interest, misuse of insider information, concealment, disclosure, secrecy, misuse of collateral, wrongful release of collateral, failure to inspect, environmental due diligence, negligent loan processing and administration, wrongful setoff, violations of statutes and regulations of governmental entities, instrumentalities and agencies (both civil and criminal), racketeering activities, securities and antitrust laws violations, tying arrangements, deceptive trade practices, breach or abuse of fiduciary duty, breach of any alleged special relationship, course of conduct or dealing, obligation of fair dealing, obligation of good faith, whether or not in connection with or related to this Plan, at law or in equity, in contract in tort, or otherwise, known or unknown, suspected or unsuspected, as set forth herein and in the Disclosure Statement (the "Preserved Claims") are hereby preserved and retained for enforcement by and for the benefit of the Plan Trust. This paragraph does not affect First Wind's right to proceed against the Debtors' insurers as provide in the Mediation Settlement.

The Plan Trust shall retain and the Plan Trustee may enforce, sue on, settle, or compromise (or decline to do any of the foregoing), any and all Claims, Causes of Action, cross claims or counterclaims held or assertable by the Debtors or their Estates.

B. Exclusive Standing.

The Plan Trustee shall have the exclusive right and standing to pursue, release or compromise the Preserved Claims on and after the Confirmation Date, and Plan Trust shall have the exclusive right and standing to pursue, release or compromise any and all Trust Clams.

C. Pursuit of Claims Against ECI

XPS was formerly known as Xtreme Power Solutions, LLC. XPS is Plaintiff in Cause No. D-1-GN-12-001640; *Xtreme Power Solutions, LLC vs. Electronic Concepts, Inc.,* in the 261st Judicial District Court, Travis County, Texas (the "**ECI Lawsuit**"). XPS asserts in the ECI

Lawsuit that ECI was responsible for two fires at the First Wind Kahuku facility in 2010 . XPS was damaged in the amount of its costs incurred to repair the damage caused by the two fires.

All of XPS's rights in the ECI Lawsuit are expressly reserved in the Plan and are transferred to the Plan Trust. XPS expects a substantial recovery, which will be distributed by the Plan Trustee in accordance with the terms of the Plan.

D. Pursuit of Claims Against Horizon Battery

XPG has a contract to sell the Grove Equipment to Horizon Battery for $1,500,000. Horizon reneged on the contract and is in breach. XPG has continued and will continue to negotiate with Horizon Battery to try and resolve the breach and the equipment disposition, but no resolution has been reached. XPG retains all its rights to seek to recover any and all claims it may have against Horizon Battery. All of XPG's rights as against Horizon Battery are expressly reserved in the Plan and are transferred to the Plan Trust. XPG expects a substantial recovery, which will be distributed by the Plan Trustee in accordance with the terms of the Plan.

E. XPS Accounts Receivable

XPS owns accounts receivable from various parties as reflected in its books and records and as described in its Disclosure Statement. All of XPS's rights in these receivables are expressly preserved as assets of the XPS estate and will either be collected or transferred to the Plan Trust for the Trustee to seek to collect.

F. Failure to Disclose Preserved Claims

It is the intent of the Debtors that the above reservation of Preserved Litigation Claims shall be as broad as permitted by applicable law and shall include, all Preserved Claims, whether or not disclosed in the Debtors' schedules, and shall include any Claims referenced in any disclosure statement filed in the Chapter 11 Case.

ARTICLE XIII
EFFECT OF CONFIRMATION OF THE PLAN, DISCHARGE, EXCULPATION, AND INJUNCTION

A. Discharge of Debtor

Except as specifically provided for herein, or in the Confirmation Order, all treatment provided hereunder shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims against and Interests in the Debtors of any nature whatsoever or against any of the Debtors' Assets or properties. Except as otherwise expressly provided herein, entry of the Confirmation Order (subject to the occurrence of the Effective Date) shall act as a discharge of all Claims against and debts of, Liens on, and Interests in the Debtor, the Debtors' Assets and properties, arising at any time before the Confirmation Date, regardless of whether a proof of Claim or proof of Interest therefor was filed, whether the Claim or Interest is Allowed, or whether the holder thereof votes to accept this Plan or is entitled to receive a distribution

hereunder, subject to the occurrence of the Effective Date. On the Confirmation Date, and subject to the occurrence of the Effective Date, any holder of such discharged Claim or Interest shall be precluded from asserting against the Debtors or any of its Assets or properties any other or further Claim or Interest based upon any document, instrument, act, omission, transaction, or other activity of any kind or nature that occurred before the Confirmation Date, except as otherwise expressly provided in the Plan. The Confirmation Order shall be a judicial determination of discharge of all liabilities of the Debtor, subject to the occurrence of the Effective Date.

B. Injunction

Except as otherwise expressly provided in the Plan, in accordance with section 524 of the Bankruptcy Code, the discharge provided by the Plan and section 1141 of the Bankruptcy Code shall act as an injunction against the commencement or continuation of any action, employment of process, or act to collect, offset, or recover the Claims and Interest discharged and/or released by the Plan. Except as otherwise expressly provided in the Plan and/or Confirmation Order, all Entities who have held, hold or may hold Claims against or Interests in the Debtors along with their respective present and former employees, agents, officers, directors, principals and affiliates, are permanently enjoined, from and after the Effective Date, from taking any of the following actions against the Debtor, Reorganized Litigation Trust, the Plan Trust, the Plan Trustee, or the Plan Trust Assets with respect to such Claim or Interest: (i) commencing or continuing in any manner any action or other proceeding of any kind; (ii) enjoining or seeking to enjoin the exercise of any right or remedy provided by or contemplated by the Plan; (iii) enforcing, attaching, collecting or recovering by any manner or means, whether directly or indirectly, of any judgment, award, decree or order, (iv) creating, perfecting, or enforcing, in any manner, directly or indirectly, any encumbrance of any kind, or (v) asserting any right of setoff, subrogation or recoupment of any kind. Nothing herein shall be interpreted to enjoin the First Wind Arbitration.

C. Postpetition Exculpation of Debtors, Committee, the Plan Trustee, and their respective Professionals.

Notwithstanding anything herein to the contrary, as of the Effective Date, neither the Debtors, the Committee, the Plan Trustee, nor their respective Professionals shall have or incur any liability for any claim, cause of action or other assertion of liability for any act taken or omitted to be taken since the Petition Date in connection with, or arising out of, the Chapter 11 Case, the formulation, dissemination, confirmation, consummation, or administration of the Plan, property to be distributed under the Plan, or any other act or omission in connection with the Chapter 11 Case, the Plan, the Disclosure Statement or any contract, instrument, document or other agreement related thereto.

D. Mandatory Jurisdiction for Certain Claims

Exclusive jurisdiction for any claim, cause of action or other assertion of liability against the Debtors respective prepetition directors, officers, employees, partners, members, agents, representatives, accountants, expert witnesses and/or attorneys for any act taken or omitted to be taken between the Petition Date and the Effective Date in connection with, or arising out of the

Chapter 11 Case, the formulations, dissemination, confirmation, consummation or administration of the Plan, shall lie with the Bankruptcy Court.

E. Incorporation by Reference of Releases In Mediation Settlement

The Plan incorporates by reference all releases called for in the Mediation Settlement.

ARTICLE XIV
MISCELLANEOUS PROVISIONS

A. Headings.

All headings utilized in the Plan are for convenience and reference only, and shall not constitute a part of the Plan for any other purpose.

B. Due Authorization.

Each and every Claimant who elects to participate in the distributions provided for herein warrants that such Claimant is authorized to accept, in consideration of such Claim against the Debtors' Estate, the distributions provided for in the Plan and that there are not outstanding commitments, agreements, or understandings, expressed or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by such Claimant under the Plan.

C. Further Assurances and Authorizations.

The Debtors shall seek such orders, judgments, injunctions, and rulings that may be required to carry out further the intentions and purposes, and to give full effect to the provisions, of the Plan.

D. Applicable Law.

Except to the extent that the Bankruptcy Code or other federal law is applicable, the rights, duties and obligations arising under the Plan shall be governed by and construed and enforced in accordance with the internal laws of the State of Texas without reference to the laws of other jurisdictions.

E. Privileged Communications; Work Product.

For purposes of any proprietary, confidential or privileged information or communication, including attorney-client privileged communications, and documents that would otherwise constitute attorney work product, the Plan Trustee shall succeed to the interest of the Debtors and the Estates with regard to privileged communications and work product. Within five (5) days after the Confirmation Hearing, if the Bankruptcy Court confirms the Plan, the Debtors and Debtors' counsel shall promptly transfer all attorney client communication and attorney-client work product to the Plan Trustee.

F. No Interest.

Except as expressly stated in the Plan, or allowed by the Court, no interest, penalty or late charge is to be Allowed on any Claim subsequent to the Filing Date.

G. Post-Confirmation Actions.

After Confirmation, the Debtors may, with the approval of the Court, and so long as it does not materially or adversely affect the interest of Creditors, remedy any defect or omission, or reconcile any inconsistencies in the Plan or in the Order of Confirmation, in such manner as may be necessary to carry out the purposes and effect of the Plan.

H. Payment Dates.

Whenever any payment or distribution to be made under the Plan shall be due on a day other than a Business Day, such payment or distribution shall instead be made, without interest, on the next Business day, except as may be provided in negotiable instruments requiring such payments.

I. Conditions Precedent to Effectiveness.

The Effective Date shall not occur and the Plan shall not become effective unless and until the following conditions are satisfied in full or waived in writing by the Debtors: (i) the Confirmation Order, in form and substance acceptable to the these Debtors, is entered by the Bankruptcy Court; (ii) the Confirmation Order shall have become a Final Order; (iii) all actions, documents, and agreements necessary to implement the Plan shall have been effected or executed; and (iv) the Plan Trustee shall have assumed his or her position.

J. Effect of Failure of Conditions to Effective Date.

In the event the conditions precedent specified in Article 11.09 hereof have not been satisfied or duly waived on or prior to one hundred-eighty (180) days after the Confirmation Date, then (i) the Confirmation Order shall be vacated, (ii) no distributions under the Plan shall be made, (iii) the Debtors and all holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, (iv) all of the Debtors' obligations with respect to the Claims and Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any other Entity in any further proceedings involving the Debtor, and (v) nothing contained herein shall prejudice in any manner the rights of the Debtor.

K. Payment of Statutory Fees.

On the Effective Date, and thereafter as may be required, the Plan Trustee shall pay all fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

L. Amendments or Modifications of the Plan.

After the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Claims or Interests under the Plan, the Debtors or the Plan Trustee may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan. A holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, or modified, if the proposed alteration, amendment, or modification does not materially and adversely change the treatment of the Claim or Interest of such holder.

M. Severability.

If, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor or any affected Party, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision as altered or interpreted shall then be applicable. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

N. Binding Effect.

The Plan shall be binding upon the Debtors, the holders of Claims and Interests and all other parties in interest, and their respective successors and assigns.

O. Notices

In order to be effective, all notices, requests, and demands to or upon the Debtors or Plan Trustee must be in writing (including by facsimile transmission or email) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered as follows:

To the Debtors:

Shelby A. Jordan
Nathaniel Peter Holzer
JORDAN, HYDEN, WOMBLE, CULBRETH, & HOLZER, P.C.
500 North Shoreline Drive, Ste. 900
Corpus Christi, Texas 78401-0341

Phone (361) 884-5678
Fax (361) 888-5555
sjordan@jhwclaw.com
pholzer@jhwclaw.com

To the Plan Trustee:

Angelo A. DeCaro, Jr.
13401 Country Trails Lane
Austin, TX 78732
512-423-0063
decaro@quadrusconsulting.com

P. Time.

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

ARTICLE XV
RETENTION OF JURISDICTION

The Bankruptcy Court shall retain exclusive jurisdiction over this Chapter 11 Case after Confirmation, notwithstanding Consummation or substantial consummation, for the following purposes:

a) to consider and effect any modification of the Plan under section 1127 of the Bankruptcy Code;

b) to hear and determine all controversies, suits and disputes that arise in connection with the interpretation, implementation, effectuation, consummation or enforcement of the Plan or Confirmation Order, including, without limitation, the discharge of the Debtors or the releases of Subordinated Claims contained herein;

c) to hear and determine all requests for compensation and/or reimbursement of expenses for the period commencing on the Petition Date through the Effective Date;

d) to hear and determine all objections to Claims and Interests, including, without limitation, Allocation Claims Litigation, and to determine the appropriate classification of any Claim or Interest, and other controversies, suits and disputes that may be pending at or initiated after the Confirmation Date, except as provided in the Confirmation Order;

e) to hear and determine all Preserved Claims;

f) to consider and act on such other matters consistent with this Plan as may be provided in the Confirmation Order;

g) to make such orders as are necessary and appropriate to carry out and implement the provisions of this Plan;

h) to approve the reasonableness of any payments made or to be made, within the meaning of section 1129(a)(4) of the Bankruptcy Code;

i) to exercise the jurisdiction granted pursuant to section 505(a) and (b) of the Bankruptcy Code to determine any and all federal, state, Commonwealth, local and foreign tax liabilities of, and any and all refunds of such taxes paid by the Debtor;

j) to hear and determine any issues or matters in connection with any property not timely claimed as provided in this Plan; and

k) to determine any and all motions, applications, adversary proceedings and contested matters whether pending in the Case as of the Effective Date or brought subsequently by the Plan Trustee.

Nothing contained in this Article shall be construed so as to limit the rights of the Debtors or the Plan Trustee to commence or prosecute any claim in any court of competent jurisdiction.

ARTICLE XVI
RECOVERY ANALYSIS, FEASIBILITY, AND RISK FACTORS

A. Recovery Analysis

Recoveries to all Classes are derived from cash on hand and cash generated from future assets sale and litigation recoveries.

B. Feasibility of the Plan

Section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court find that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor unless such liquidation is proposed in the Plan. The Plan satisfies section 1129(a)(11) of the Bankruptcy Code, because it provides for approval of the Mediation Settlement and it creates the Plan Trust from which all distributions to Allowed Claims can be paid.

C. Risks Associated with the Plan

Both the confirmation and consummation of the Plan are subject to a number of risks. There are certain risks inherent in the confirmation process under the Bankruptcy Code. If certain standards set forth in the Bankruptcy Code are not met, the Bankruptcy Court will not confirm the Plan even if holders of Allowed Claims and Interest vote to accept the Plan. Although the Debtors believe that the Plan meets such standards, there can be no assurance that the Bankruptcy Court will reach the same conclusion. If the Bankruptcy Court were to determine that such requirements were not met, it will likely convert the case to a case under Chapter 7. The Debtors believe that the solicitation of votes on the Plan will comply with section 1126(b) and that the Bankruptcy Court will confirm the Plan. The Debtors, however, can provide no assurance that modifications of the Plan will be permitted.

ARTICLE XVII
ALTERNATIVES TO PLAN AND LIQUIDATION ANALYSIS

There are three possible consequences if the Plan is rejected or if the Bankruptcy Court refuses to confirm the Plan: (a) the Bankruptcy Court could consider an alternative plan of reorganization proposed by the Debtors or another party as the Exclusive Period has expired; (b) the Debtors' chapter 11 bankruptcy case could be converted to liquidation cases under chapter 7 of the Bankruptcy Code; or (c) the Bankruptcy Court could dismiss the Debtors' chapter 11 bankruptcy cases. Given the status of these cases and statements by the Court at prior hearings, the Debtors believe the Court will convert the case to Chapter 7 if the Plan cannot be confirmed.

A. Alternative Plans

The Debtors had the exclusive right to propose a plan of reorganization for the first 120 days of their Chapter 11 Cases, which time was not extended.

B. Chapter 7 Liquidation

If the Plan is not confirmed, it is expected that the Debtors' chapter 11 case will be converted to a case under chapter 7 of the Bankruptcy Code, in which case a trustee would be elected or appointed to liquidate the assets of the Debtors for distribution to holders of Claims and Interests in accordance with the priorities established by the Bankruptcy Code instead of pursuant to the Mediation Settlement. Whether a bankruptcy case is one under chapter 7 or chapter 11, secured creditors, Administrative Claims and Priority Claims are entitled to be paid in cash and in full before unsecured creditors receive any funds.

A chapter 7 trustee would not likely be familiar with the intricacies of Debtors' assets, liability, and corporate structure. Thus, an additional layer of advisors and experts would need to be retained by the chapter 7 trustee, giving rise to additional administrative expenses that would be entitled to priority.

Moreover, the Debtors believe that the chapter 7 liquidation value of the Estate Property would not be sufficient to pay existing secured claims and Administrative Expense Claims incurred by the Debtor in this bankruptcy proceeding. If the secured creditors are not paid in full in chapter 7, unsecured creditors would receive nothing. Conversely, under the Plan, Administrative Expense Claims would be paid in full through the proceeds of the sale process of the Debtors' Estate. In addition, Allowed General Unsecured Claims will receive distributions funded by the proceeds of the sale of the Debtors' assets. Such payments would not occur under a chapter 7 liquidation. Finally, the Debtors assert that expenses associated with the Plan will be less than those associated with the administrative priority fees of a chapter 7 liquidation.

The Debtors, therefore, believe that the Distributions under the Plan to holders of Allowed Claims and Interests will be greater than any Distributions that such holders would receive in a hypothetical chapter 7 liquidation of the Debtors' estate and, accordingly, the Plan meets the requirements of Section 1129(a)(7) of the Bankruptcy Code.

C. Dismissal

If the Debtors' bankruptcy cases were to be dismissed, they would no longer have the protection of the Bankruptcy Court and the applicable provisions of the Bankruptcy Code, including the automatic stay. Without such fundamental protections preventing holders of

Claims from taking actions against the Debtors, holders of Claims would be allowed to pursue their Claims against the Debtors outside of the bankruptcy proceeding. In particular, holders of Secured Claims would be allowed to exercise their state law remedies with respect to their collateral, including possible foreclosure. Accordingly, the Debtors believe that dismissal of the Debtors' bankruptcy case, which would likely result in a piecemeal dismemberment of the Debtors, would not serve the best interests of holders of Claims and Interests. Rather, a sale of the Debtors' assets with Bankruptcy Court oversight, as contemplated by the Plan, will result in greater certainty and a greater potential recovery to creditors.

ARTICLE XVIII
CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. Introduction

The following discussion summarizes certain United States federal income tax consequences of the implementation of the Plan to the Debtors and holders of Claims and Interests.

The following summary is based on the Internal Revenue Code of 1986, Treasury regulations thereunder, judicial decisions and published rulings and pronouncements of the Internal Revenue Service ("IRS") as in effect on the date hereof. Changes in these rules, or new interpretations of these rules, may have retroactive effect and could significantly affect the federal income tax consequences described below.

The federal income tax consequences of the Plan are complex and subject to uncertainties. The Debtors have not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary does not address foreign, state or local tax consequences of the Plan, and it does not purport to address the federal income tax consequences of the Plan to special classes of taxpayers (such as foreign taxpayers, broker dealers, banks, insurance companies, financial institutions, small business investment corporations, regulated investment companies, tax-exempt organizations or investors in pass through entities).

ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO THE HOLDER OF A CLAIM. ALL HOLDERS OF CLAIMS AND INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS IN DETERMINING THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES TO THEM OF THE PLAN.

B. Tax Consequences to the Debtors

Generally, under the terms of the Plan, all Claims and Interests are to be discharged. Any income corresponding to the satisfaction of Claims at a discount should not constitute taxable income to the Debtor since the debt forgiveness arises in connection with a case under title 11 of the United States Code. The Debtors, however, may be required to reduce certain tax attributes,

such as net operating loss ("NOL") carryovers. Any NOLs remaining may be subject to utilization limitations imposed by Internal Revenue Code section 382, as amended.

C. Tax Consequences to Claimants

1. In General

The federal income tax consequences of the implementation of the Plan to a holder of a Claim or Interests will depend, among other things, on: (a) whether its Claim or Interest constitutes a debt or security for federal income tax purposes, (b) whether the holder of a Claim receives consideration in more than one tax year, (c) whether the holder of a Claim is a resident of the United States, (d) whether all of the consideration by the holder of a Claim is deemed received by that holder as part of an integrated transaction, (e) whether the holder of a Claim or Interest reports income using the accrual or cash method of accounting, and (f) whether the holder of a Claim or Interest has previously taken a bad debt deduction or worthless security deduction with respect to the Claim or Interest.

2. Gain or Loss on Exchange

Generally, a holder of an Allowed Claim will realize a gain or loss on the exchange under the Plan of his Allowed Claim for cash and other property in an amount equal to the difference between: (i) the sum of the amount of any cash and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to accrued but unpaid interest on the Allowed Claim), and (ii) the adjusted basis of the Allowed Claim exchanged therefore (other than basis attributable to accrued but unpaid interest previously included in the holder's taxable income). Any gain recognized generally will be a capital gain (except to the extent the gain is attributable to accrued but unpaid interest or accrued market discount) if the Claim was a capital asset in the hand of an exchanging holder, and such gain would be a long-term capital gain if the holder's holding period for the Claim surrendered exceeded one (1) year at the time of the exchange.

Any loss recognized by a holder of an Allowed Claim generally will be a capital loss if the Claim constitutes a "security" for federal income tax purposes or is otherwise held as a capital asset. For this purpose, a "security" is a debt instrument with interest coupons or in registered form.

Holders of Claims who receive any consideration under the Plan in respect of Allowed Claims for accrued but not previously taxed interest must treat the amount of that consideration as ordinary income. A holder of a Claim whose Allowed Claim for accrued and previously taxed interest is not fully satisfied generally may take an ordinary deduction for the unsatisfied portion of that Allowed Claim, even if the underlying claim is held as a capital asset. Holders of Claims should consult their own tax advisors about the proper allocation of consideration between principal and interest.

D. Tax Consequences to Holders of Interests

Capital gain or loss will be long-term if the Interest was held by the holder for more than one year and otherwise will be short-term.

Any capital gain realized will generally be taxable. Any capital losses realized generally may be used by a corporate holder only to offset capital gains, and by an individual holder only to the extent of capital gains plus $3,000 of other income.

E. Preservation of Net Operating Loss and Tax Attributes

Internal Revenue Code section 382 could substantially limit, or deny in full, the availability of the Debtors' net operating loss and tax credit carry-forwards as a result of the transactions contemplated by the Plan. Moreover, Internal Revenue Code section 108 could result in the reduction of the loss and credit carry-forward based on the amount of debt discharged in the Plan.

F. Information Reporting and Backup Withholding

Under the backup withholding rules of the Internal Revenue Code, holders of Claims may be subject to backup withholding at the rate of thirty percent (30%) with respect to payments made pursuant to the Plan unless such holder (i) is a corporation or comes within certain other exempt categories and, when required, demonstrates this fact or (ii) provides a correct taxpayer identification number and certifies under penalties of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividends and interest income. Any amount withheld under these rules will be credited against the holder's federal income tax liability. Holders of Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

ARTICLE XIX
POSITION STATEMENTS OF VARIOUS PARTIES

The following are position statement of various affected parties concerning the Debtors' Plan. These are statements and opinions of the parties as indicated, and not of the Debtors. The Debtors reserve the right to agree or to disagree and/or dispute to any and all of these stated positions.

A. Position Statement of Duke/Notrees

[to be provided by Duke/Notrees]

B. Position Statement of ACE/Westchester

[to be provided by ACE/Westchester]

C. Position Statement of ??????

[to be provided by ???]

ARTICLE XX
CONCLUSION

This Disclosure Statement has attempted to provide information regarding the Debtors' bankruptcy estate and the potential benefits that might accrue to holders of Claims against and Interests in the Debtors under the Plan. The Plan is the result of efforts of the Debtors' and their advisors to provide the holders of Allowed Claims and Interests with the highest and best recovery. The Debtors believe that the Plan is feasible and will provide each holder of an Allowed Claim against and Interest in the Debtor with an opportunity to receive greater benefits than those that would be received by liquidation of assets by a chapter 7 trustee. The Debtors, therefore, urge interested parties to vote in favor of the Plan.

Dated: November 7, 2014.

Respectfully Submitted,

Xtreme Power, Inc., Xtreme Power Systems, LLC and Xtreme Power Grove, LLC, Debtors and Debtors in Possession

____
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