

Blue Earth, Inc.  
Form 10-K/A  
September 12, 2013

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**AMENDMENT NO. 2**

**To**

**FORM 10-K/A**

(Mark One)

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

**For the fiscal year ended December 31, 2012**

**OR**

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

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission file number 0-54669**

**BLUE EARTH, INC.**

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*(Exact Name of Registrant as specified in its charter)*

|  |  |  |
|--|--|--|
| <b>Nevada</b><br><i>(State or other jurisdiction<br/>of incorporation or<br/>organization)</i> | <b>3531</b><br><i>(Primary Standard Industrial<br/>Classification Code Number)</i> | <b>98-0531496</b><br><i>(I.R.S. Employer<br/>Identification No.)</i> |
|--|--|--|

2298 Horizon Ridge Parkway, Suite 205

Henderson, NV 89052

Telephone: 702-263-1808

Telecopier: 702-263-1824

*(Address and telephone number of principal executive offices)*

Dr. Johnny R. Thomas, CEO

Blue Earth, Inc.

2298 Horizon Ridge Parkway, Suite 205

Henderson, NV 89052

Telephone: 702-263-1808

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*(Name, address and telephone number of agent for service)*

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act: Common Stock, \$.001 par value

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

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates or an aggregate of approximately 14,397,464 shares (based on 18,625,802 issued and outstanding) computed by reference to the \$1.00 per share price at which the common stock was last sold as of June 30, 2012, the last business day of the registrant's second fiscal quarter was \$14,397,464.

As of March 28, 2013, there were 21,816,868 shares of Common Stock, par value \$0.001 per share, outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE: NONE**



**EXPLANATORY NOTE - AMENDMENT**

The sole purpose of this Amendment No. 2 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2012 (the "10-K"), is to include the audit report of HJ & Associates, LLC, an independent registered public accounting firm, for the accompanying consolidated balance sheet of Blue Earth, Inc. and Subsidiaries as of December 31, 2011 and the related consolidated statements of operations, stockholders' deficit and cash flows for the year ended December 31, 2011 ("Fiscal 2011 Financial Statements"). The foregoing report and consolidated financial statements replace in their entirety the report of Lake & Associates, CPA's LLC ("Lake") and the accompanying Fiscal 2011 Financial Statements. The Public Company Accounting Oversight Board ("PCAOB") has revoked the registration of Lake as auditors.

Management does not believe that any of the changes to the Fiscal 2011 Financial Statements are of a substantive nature and the financial statements have not been restated. The only other changes which have been made to the 10-K, are the corresponding changes to Management's Discussion and Analysis of Financial Condition and Results of Operations. This Amendment has not been updated to reflect events occurring subsequent to the filing of the 10-K, except as set forth in the Subsequent Event footnote to the Fiscal 2011 Financial Statements.







**BLUE EARTH, INC. AND SUBSIDIARIES**

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Signatures

## PART I

### Forward Looking Statements

This report contains forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. These statements relate to future events or future predictions, including events or predictions relating to our future financial performance, and are generally identifiable by use of the words "may," "will," "should," "expect," "plan," "anticipate," "believe," "feel," "confident," "estimate," "intend," "predict," "forecast," "potential" or "continue" or the negative of such terms or other variations on these words or comparable terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks described under "Risk Factors" that may cause the Company's or its industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements. In addition to the risks described in Risk Factors, important factors to consider and evaluate in such forward-looking statements include: (i) general economic conditions and changes in the external competitive market factors which might impact the Company's results of operations; (ii) unanticipated working capital or other cash requirements including those created by the failure of the Company to adequately anticipate the costs associated with acquisitions and other critical activities; (iii) changes in the Company's corporate strategy or an inability to execute its strategy due to unanticipated changes; (iv) the inability or failure of the Company's management to devote sufficient time and energy to the Company's business; (v) the failure of the Company to complete any or all of the transactions described herein on the terms currently contemplated; (vi) competitive factors in the industries in which we compete; (vii) changes in tax requirements (including tax rate changes, new tax laws and revised tax law interpretations); and (viii) other capital market conditions, including availability of funding sources. In light of these risks and uncertainties, many of which are described in greater detail elsewhere under Risk Factors, there can be no assurance that the forward-looking statements contained in this report will in fact transpire.

Although the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither the Company nor any other person assumes responsibility for the accuracy and completeness of such statements. We do not undertake any duty to update any of the forward-looking statements after the date of this report to conform such statements to actual results or changes in our expectations.

### **Item 1. Business.**

#### Overview

Blue Earth, Inc. and subsidiaries (the Company) is a comprehensive provider of energy efficiency and alternative/renewable energy solutions for facilities primarily located in the west coast states. In addition, strategic acquisitions of energy management services and alternative/renewable energy companies have been and are expected to continue to be an integral part of our development. The Company provides energy efficiency services including energy management, energy audits and reducing energy consumption through retrofits of lighting, refrigeration and HVAC for small commercial business. The Company develops, designs, builds and implements technologies such as solar, fuel cells and combined heat and power ( CHP ) for alternative and renewable energy projects. The Company also finances renewable and alternative energy projects through industry relationships.

Effective January 1, 2011, Blue Earth acquired Castrovilla, Inc. based in Mountain View California which manufactures, sells and installs commercial refrigeration and freezer gaskets and sells and installs motors and controls to approximately 5,400 small commercial businesses. See Castrovilla Acquisition below.

On September 7, 2011, Blue Earth acquired Xnergy, Inc., and its wholly owned subsidiary HVAC Controls & Specialties, Inc., a Carlsbad, California based energy services company. Simultaneously, the Company purchased ecoLegacy, LLC, which serves as a financing vehicle for Xnergy. Xnergy provides a broad range of comprehensive energy solutions including the specialized mechanical engineering, the design, construction and implementation of energy savings projects, energy conservation, energy infrastructure outsourcing, power generation and energy supply and risk management. Xnergy also provides comprehensive maintenance and service programs, including every aspect of heating, ventilation and air-conditioning (HVAC), mechanical systems for design-build to repair and retrofit services. See Xnergy Acquisition below.

Blue Earth entered into a Purchase and Sale Agreement dated as of July 26, 2012, with White Horse Energy, LLC for the Company to acquire 100% of the issued and outstanding limited liability company interests in Waianae PV-02, LLC, a Hawaii limited liability company which is the owner of certain rights to construct an approximately 497 kilowatt photovoltaic solar energy system in Waianae, Hawaii. Construction began in the third quarter of 2012 and is expected to be completed no later than the second quarter of 2013. On August 3, 2012, Blue Earth announced it acquired the exclusive right to construct seven different solar PV projects totaling approximately 3.5 megawatt DC in Hawaii. The projects are valued at approximately \$15 million and are located on the island of Oahu and are primarily ground mount solar systems. See [Hawaii Solar Energy Acquisitions](#) below.

The construction of the Sunvalley solar PV projects located in California, valued at approximately \$4 million, began in the third quarter and are expected to be completed no later than the second quarter of 2013. The Sunvalley Solar projects have signed Engineer, Procure and Construct ( EPC ) agreements with the owners of the businesses for each of the respective construction sites. All of the customers have agreed to assign the 1603 Grant and Utility Incentives, including their own cash to pay for the solar PV systems. All of the projects are 1603 Grant eligible. Total pipeline is projected to be between \$15 million and \$25 million at December 21, 2012.

As part of the previously announced development and financing agreement with Greenwood Biosar LLC, a joint-venture company between Greenwood Energy and Biosar S.A., Greenwood Power is part of the Libra Group, a privately owned international business group primarily focused on five core sectors: shipping, aviation, real estate, hospitality and energy. This joint-venture company, in addition to other funding sources, are capable of funding 50 mega watts of DC in 2013.

We also focus on acquiring companies and innovative technologies that serve the multi billion dollar energy efficiency services and renewable energy market sectors. The targeted companies provide a variety of energy services that enable customers to reduce energy consumption, lower their generating capacity and maintenance costs and realize environmental benefits. The targeted technologies typically include various measures designed for a specific customer or facility in our target market of small commercial businesses and residences to improve the efficiency of building systems, such as refrigeration, lighting and heating, ventilation and air conditioning

Management also intends to accelerate introduction of the acquired technology/products by offering and installing them through energy management service companies, which have an established base of customers at the local, state, regional and national levels. In order to accelerate product introduction, management expects to enter into varying types of agreements with these energy management service companies, including acquisition agreements and/or joint venture agreements, as may be appropriate, for each company and geographic territory.

Management has also identified several energy management and energy management service companies that have been successfully operating in the residential and small commercial business segment of the energy efficiency sector. These energy service companies specialize in three categories that address small commercial businesses energy efficiency needs: *lighting, refrigeration and HVAC* . The targeted acquisition candidates currently provide energy

efficiency retrofit services to the small commercial businesses space. Management believes that these companies are ideal candidates from which to build a nationwide distribution, installation and service network through a combination of joint venture/associate relationships and/or acquisitions.

## **Corporate History**

On October 30, 2009, the Company entered into an Agreement of Merger and Plan of Reorganization (the 2009 Merger ) with Genesis Fluid Solutions, Ltd. ( GFS ), a privately held Colorado corporation and upon closing of the transaction GFS, as the surviving corporation, became a wholly-owned subsidiary of the Company which changed its name to Genesis and the Company succeeded to the business of GFS as its sole line of business. GFS began operations in 1994 and is engaged in the design and development of water restoration and water remediation technology and equipment for the environmental, mining and paper industries.

As of August 31, 2010, Genesis completed a Stock Purchase Agreement (the SPA ) pursuant to which the Buyers who signed the SPA, including the then Chairman and Interim Chief Executive Officer of the Company, agreed to purchase from the Company on or before August 31, 2010, all of the issued and outstanding common stock of GFS then its wholly-owned subsidiary (the GFS Spin-off ). GFS had not generated sufficient revenues or earnings as a result of its activities. See Certain Relationships and Related Transactions and Director Independence for the terms of the GSF Spin-Off.

Effective October 21, 2010, Genesis Fluid Solutions Holdings, Inc. ( Genesis ) an operating Delaware corporation formed on March 30, 2007 under the name Cherry Tankers, Inc. merged with and into Blue Earth Inc., a Nevada corporation formed on October 6, 2010, solely as a reincorporation and name change.

Our executive offices are located at 2298 Horizon Ridge Parkway, Suite 205, Henderson, NV 89052. Our telephone number is (702) 263-1808.

### **Corporate Strategy**

Blue Earth, Inc. management will focus its mergers and acquisitions activities on opportunities with the following profile.

.  
Innovative and commercially proven technologies, which increase energy efficiency/water and wastewater, for the small commercial business segment and residential segment.

.  
Energy management and energy management service companies, which have an established customer base seeking growth capital to expand their capabilities, product offerings and substantially increase their revenues and operating profits.

.  
Energy service companies that provide turnkey energy solutions to public and private clients including EPC (Engineer/Procure/Construct), design build of cogeneration, alternative and renewable electric power plants for green buildings ; regular service and maintenance through long-term contracts and third party commissioning of mechanical and energy projects.

*Bundled Retrofits.* An important element of the M&A strategy is to acquire energy management service companies with an established customer base in each of the afore-mentioned categories. The customer base of each potential acquisition will present an opportunity to cross-sell bundled retrofits to the other acquired companies customer base. For example, when we acquire a company that primarily specializes in refrigeration, we will be in position to contact its customer base and offer to provide energy management services for lighting and HVAC.



Another important criteria is an acquisition candidate's existing relationship with utilities. We are actively seeking private companies that have successfully provided utility funded rebate programs as incentives to their customers to adopt energy efficiency measures that a particular utility based rebate program is offering.

We are targeting energy management companies that specialize in several aspects of utility run energy efficiency programs including: Program Development; Program Implementation; Program Management; Program Tracking; and Program Reporting as required by oversight agencies.

We intend to acquire innovative technologies and established, reputable energy management and energy management service companies, using restricted common stock; cash and/debt in combinations appropriate for each potential acquisition.

*Continue to Maintain Entrepreneurial Approach.* We will maintain an entrepreneurial approach toward our customers and remain flexible in designing projects tailored specifically to meet their needs.

*Expand Scope of Product and Service Offerings.* We plan to continue to expand our offerings by including new types of energy efficiency services, products and improvements to existing products based on technological advances in energy savings strategies, equipment and materials.

*Meet Market Demand for Cost-Effective, Environmentally-Friendly Solutions.* Through our energy efficiency measures and products, we enable customers to conserve energy and reduce emissions of carbon dioxide and other *pollutants*. We plan to continue to focus on providing sustainable energy solutions that will address the growing demand for products and services that create environmental benefits for customers.



## **Industry Overview**

The market for energy efficiency services has grown significantly, driven largely by rising and volatile energy prices, advances in energy efficiency and renewable energy technologies, governmental support for energy efficiency and renewable energy programs and growing customer awareness of energy and environmental issues. End-users, utilities and governmental agencies are increasingly viewing energy efficiency measures as a cost-effective solution for saving energy, renewing aging facilities and reducing harmful emissions.

The clean-tech industry is a multi-billion global industry comprising several market sectors as follows: energy efficiency, including green building; water and wastewater; recycling and waste; LED lighting; energy storage; alternative energies and renewables; batteries/storage; smart grid electrical distribution system; alternative transport; and various green business, research and financial services.

In August 2010, our Board of Directors elected to broaden the Company's focus in contrast to relying only on watering restoration and remediation, as described above under Corporate History. We will continue to capitalize on our past investments in the patented Rapid Dewatering System, through royalty agreements negotiated from the sale of the Company's wholly-owned subsidiary to a group of buyers, including a former officer and director.

## **Corporate Structure**

Our corporate structure for energy efficiency related acquisitions is designed to separate the acquired companies into three wholly-owned subsidiaries of the Company, which will be operated as separate business units.

Although the nine subsidiaries will operate independently, they will work in concert to develop, manage, implement and monitor energy efficiency programs for the utilities and the small commercial businesses established customer base.

We believe that the implementation and execution of our corporate strategy will benefit our shareholders and attract investors who are looking at two bottom lines: financial profitability and social or environmental benefits produced by the Company and its products and services.

## Castroville Acquisition

On January 19, 2011, Castroville Energy, Inc., a recently formed California subsidiary of the Company, acquired substantially all of the assets of Humitech of Northern California, LLC ( Humitech ), a California limited liability company and its related company, Castroville, Inc. (collectively, with Humitech, the Castroville Acquisition ) with an Effective Date (as defined) of January 1, 2011. Founded in 2004, Castroville based in Mountain View, California, had approximately \$3.4 million in audited revenues in 2010, which is more than twice its 2008 revenues. Castroville currently serves approximately 5,400 small commercial businesses in Northern California with its 29 employees as of December 31, 2011. Castroville manufactures, sells and installs commercial refrigeration gaskets and strip curtains, which it sells and installs alongside many other energy efficiency products, such as EC motors, LED lights and a variety of control technologies. Castroville s strategy is to sell energy efficiency bundled retrofits (refrigeration, lighting, HVAC), to its customer base.

Castroville participates in several ratepayer funded utility companies energy efficiency rebate programs, both through third-party programs and through its own small commercial business program, *Keep Your Cool*. The *Keep Your Cool* program was created in response to a Request For Proposals put out by a local municipal utility, Silicon Valley Power. Castroville s proposal was accepted and the program funded several hundred thousand dollars. This eventually resulted in contracts with over a dozen municipal utilities throughout Northern California to provide turnkey program administration and implementation. In 2008, Castroville acquired the assets of Bay Area Refrigeration, a fully licensed commercial refrigeration contractor that has serviced the San Francisco Bay Area for nearly 30 years.

Castroville has created a business model for sustainably generating and delivering kW and kWh that benefits both the utility and the end user. Castroville provides energy efficiency services to small commercial businesses and delivers custom programs directly to utilities. The model is both expandable and scalable. Castroville is well positioned in terms of capabilities and relationships with utilities and the energy service companies (ESCO) running the third-party programs. Castroville intends to become a statewide and regional service provider.

Since acquiring Bay Area Refrigeration and the C-38 refrigeration contractor's license, Castrovilla is qualified to install Electronically Commutated (EC) motors, Evaporator Fan Controllers, Anti-Sweat Heater Controllers and LED Case Lighting and other technologies. This has made the Company's retrofit projects far more comprehensive, which is a significant competitive advantage over companies that target only a single measure. In fact the largest rebate programs require comprehensive retrofits to qualify for rebates.

In addition to energy efficiency retrofits, Castrovilla also has on-going contracts to provide periodic maintenance to numerous restaurants and other refrigerated facilities throughout the San Francisco Bay Area. This includes 24 x 7 emergency refrigeration services.

In mid-2009 Castrovilla opened an online-store ([www.bayarearefrigeration.com](http://www.bayarearefrigeration.com)) to sell manufactured gaskets and strip curtains on both a wholesale and retail basis. The web site also allows us to distribute refrigeration hardware, plumbing fixtures, kitchen equipment, water filtration, electrical and tools and accessories.

The purchase price for Humitech, under the Asset Purchase Agreement ( APA ) was \$600,000. This consisted of the payment of \$150,000 of affiliated debt and the issuance of 267,857 shares of restricted Common Stock of Blue Earth, Inc. with an agreed upon value of \$508,928, or \$1.90 per share, the average closing price of the Company's Common Stock from September 1-23, 2010, when the terms of the transaction were agreed to. The Company also assumed trade debt of approximately \$121,000. Humitech will remain an unaffiliated non-operating entity in order to pay its other liabilities with the proceeds of the shares received from the Company, as well as from an inter-company note in the amount of \$356,707 from Castrovilla, Inc.

On December 30, 2010, Castrovilla Energy, Inc. ( CEI ), a wholly-owned subsidiary of the Company's subsidiary, Blue Earth Energy Management Services, Inc. ( BEEMS ) entered into an Agreement and Plan of Merger (the Plan ) with Castrovilla, Inc. and the Stockholders of Castrovilla, Inc. with an Effective Date of January 1, 2011, subject to final Board approval which was obtained on January 18, 2011. CEI merged with and into Castrovilla, Inc. on January 21, 2011, which continued its existence as a wholly-owned California subsidiary of BEEMS.

Under the Plan, the Company issued an aggregate of 1,011,905 shares of its Common Stock valued at \$1.68 per share, or \$1,700,000, to the stockholders of Castrovilla, Inc. in exchange for all of the outstanding capital stock of Castrovilla, Inc. All of the Company's 1,279,762 shares issued in the Castrovilla Acquisition (collectively, the Company Shares ) are subject to Lock-up/Leak-out and Guaranty Agreements, as amended. The two Castrovilla, Inc. stockholders, John Pink, who continued as President of Castrovilla, Inc., and Adam Sweeney, together with Humitech (the Stockholders ) could not sell any of the Company Shares for a six-month period beginning on the Effective Date of the Plan of January 1, 2011, and thereafter and ending June 30, 2013, the three stockholders may sell up to 2,461 Company Shares per trading day in the aggregate until all Company Shares are sold (the Lock-up Period ). The Company contingently guaranteed (the Guaranty ) to the Stockholders the net sales price of \$1.68 per share, provided the Stockholders are in compliance with the terms and conditions of the Lock-up Agreement and the hereinafter described performance criteria are met.

A number of shares equal in value to fifty percent (50%) of the profits, if any, from the sale of shares above \$3.36 per share during the Lock-up Period will be returned to the Company. Any deficit from sales below \$1.68 per share shall be paid (i) 50% in cash, and (ii) the remaining 50% in either cash or shares of Common Stock of the Company (at their then current fair market value, or any combination thereof, at the sole discretion of the party making the payment) provided certain Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) performance criteria are achieved as discussed in the next paragraph.

For the twelve (12) months ended December 31, 2012, the Company's EBITDA was negative and therefore there is no guaranty in effect for the quarter ended March 31, 2013, and none for the foreseeable future due to the decision to expand Castrovilla's operations into several new states. Thereafter, the determination of whether there will be a guaranty in effect is determined as follows:

In the event that Castrovilla Inc.'s EBITDA during the Lock-up Period is less than the budgeted amount of \$722,000 of EBITDA per year for each of the fiscal years ending December 31, 2012 and 2013, the \$1.68 per share guaranteed price shall be decreased by the same percentage decrease that EBITDA is below the projected \$722,000 of EBITDA. All of such calculations will be in accordance with GAAP and derived from the Company's reviewed financial statements for the first three fiscal quarters of the year and the audited financial statements for the fourth quarter of the year. If EBITDA is zero or negative, then no Guaranty is in effect for the next quarter and the number of the Company's Shares which could have been sold during such three-month period will not be covered by a Guaranty in the future.

The targeted EBITDA for the 12-month period from July 1, 2011 to June 30, 2012 was \$722,000, or \$180,500 per quarter (the quarterly rate of \$180,500 is a constant for each quarter through to the end of the Lock-up/Guarantee period). Therefore, for the 12 months ended December 31, 2011, the targeted EBITDA was \$722,000. The targeted EBITDA for each subsequent 12-month period shall be \$722,000, which shall be compared to the actual performance for the most recent 12-month reporting period as illustrated above and multiplied times \$1.68 to arrive at the guaranteed share price, if any. These targeted amounts may be reduced if a majority of the Board of Directors agree on budget changes which require an acceleration of expenses thereby affecting a current year's budgeted EBITDA.

In addition, under the Plan, the Company paid \$50,000 to an unaffiliated third party for an existing obligation of Castrovilla, Inc. There was no relationship between the Company or its affiliates and any of the other parties, prior to this transaction and with respect to the APA and the Plan.

### **Castrovilla Products and Services**

In 2012 and 2011, Castrovilla's revenues were generated primarily from sales of parts and equipment for refrigeration and LED Case Lighting, refrigeration service, preventative maintenance, consulting, and on-line sales. Currently, the only materials that are purchased in large quantities are its gasket materials. All other inventory including EC motors, Anti-Sweat heaters (ASH) controllers, LED Case Lights and other hardware are kept in low quantities or purchased on an as needed basis.

Castrovilla accesses a variety of rebate programs, always choosing the best one for a given project. The funds that pay for the rebate programs utilized by Castrovilla are the result of California Public Utilities Commission (CPUC) requirements that all utilities in the State of California collect a Public Benefits charge as a percentage of the total bill. These funds are required to be invested in energy savings programs. This pool of money measures in the billions of dollars and pays for many programs. Several of these programs are provided through third-party programs, which are usually administered by ESCO and consulting companies and implemented by refrigeration, lighting, HVAC and solar companies. Each program has different eligibility requirements and/or is available in different areas. Participating in the programs in its market area allows Castrovilla to provide the broadest coverage to its customers.

Castroville management believes that the key to sustaining and expanding its program is to take part in or take advantage of a constant stream of technological innovation. By identifying, evaluating and verifying the best new measures Castroville is able to serve its 5,400 small commercial customers and bring in new ones. In some cases Castroville is introduced to new measures through its work for other companies, which it can assimilate into Keep Your Cool.

### **Xnergy Acquisition**

On September 7, 2011, Blue Earth, Inc. acquired Xnergy, Inc. ( Xnergy ), a Carlsbad, California based energy services company (the Xnergy Acquisition ). Xnergy provides a broad range of comprehensive energy solutions including specialized mechanical engineering the design, construction and implementation of energy savings projects, energy conservation, energy infrastructure outsourcing, power generation and energy supply and risk management. Xnergy also provides comprehensive maintenance and service programs, including every aspect of heating, ventilation and air-conditioning (HVAC), mechanical systems for design-build to repair and retrofit services.



**Xnergy Business Strategy - Energy Efficiency**

In order to maximize the effectiveness of any energy efficiency measures, the following steps should be taken:

.

**Determine the energy efficiency goals and priorities.** Each company or organization has different priorities with regard to their energy efficiency goals.

.

**Reduce energy demand through Commissioning.** A thorough commissioning study will ensure that a building is performing to its design intent and will look at the following:

.

Lighting

.

Mechanical / HVAC systems and controls

.

Refrigeration

.

Equipment (office, process, and manufacturing)

.

Building Envelope (windows, foundation, walls, ceiling roof, and insulation)

.

Electrical Systems

.

**Energy audit.** Energy usage, history, and costs may be gathered from the utility company which will be helpful in determining what areas of the facility could improve the most by implementing certain energy efficiency measures.

**Recommend energy efficiency strategies to attain goals.** Some of these recommendations may be implemented under the second bullet above. Other energy-saving measures include more efficient equipment, self-generating systems, new controls and variable speed drives.

*Alternative Energy Systems / Distributed Generation.*

An alternative energy system needs to suit the facility and its owner's needs. The following are several systems that Xenergy has a great deal of experience with:

**Photovoltaics / Solar Power.** This popular method converts the sun's energy directly into electricity. PV is a viable method of generating power and more panel manufacturers are constantly increasing the efficiency and effectiveness of their equipment.

**Fuel Cells.** Fuel Cells use hydrogen and oxygen, the molecules that create water, to produce electricity with no pollution. A fuel cell operates like a battery, however a fuel cell does not run or require recharging. It will produce energy in the form of electricity and last as long as fuel is supplied.

**Gas Turbines.** These are used for distributed generation of electricity. They are reliable and have minimal maintenance costs, and have control requirements to address air pollutants.

**Combined Heat & Power (CHP) using Fuel Cells or Other Technologies.** Waste heat from the power generation process is used to create either steam or hot water which can in turn be used for heat for the building.

**Thermal Energy Storage (TES).**In this process ice is made at night during off-peak energy pricing, and stored for use during the day to cool the building when it is occupied.

***Energy Procurement / Finance Options / Incentives***

Along with the increasing demand for energy resources there are also more and more incentives to implement energy saving strategies for traditional and alternative energy systems. Along with these incentives there are some creative methods to attain and pay for power:

**Power Purchase Agreements (PPA s).**This popular method is a long-term agreement to buy power from a source that produces electricity. Under a standard PPA, the power source assumes the risk of operating and managing the electricity. This method frees up capital that a company could use elsewhere in its business operations while still maintaining low electricity costs. Xnergy has established relationships with the financing sources and can find and broker the right deal for the facility.

**Synthetic Lease Agreements (SLA s).** This method enables a lessee to obtain equipment without having the debt on the company balance sheet. The lessee can still get all the tax benefits (and burdens) of ownership, including the asset depreciation.

**PV: California Solar Initiative (CSI) Incentive:** For photovoltaic/solar systems, the CSI provides an incentive - based on the system size - for a newly implemented PV system. Xnergy will help navigate the process and can assist in filling out the application and necessary paperwork needed in order to acquire the incentive.

**Tax Credits for Alternative Energy Implementation.** The federal government has extended the tax credits to companies upon the implementation of alternative energy systems. This credit can exceed 30%, depending on the tax bracket.

### ***Hawaii Solar Energy Acquisitions.***

Blue Earth entered into a Purchase and Sale Agreement (the **PSA**) dated as of July 26, 2012, with White Horse Energy, LLC. The PSA provides for the Company to acquire 100% of the issued and outstanding limited liability company interests in Waianae PV-02, LLC, a Hawaii limited liability company (the **SPE**). The SPE is the owner of certain rights to construct an approximately 497 kilowatt photovoltaic solar energy system in Waianae, Hawaii. Construction began in the third quarter of 2012 and is expected to be completed no later than the second quarter of 2013. The project is valued at approximately \$2 million and consists of a solar PV system mounted on the ground. The SPE has a fully executed 20 year power purchase agreement (**PPA**) with Hawaiian Electric Company (**HECO**). The SPE will engineer, construct, own, operate and maintain the solar PV plant. The power generated by the plant will be sold to HECO in the form of kilowatt-hrs (electricity).

Hawaii has the largest Renewable Portfolio Standard in the US, requiring 40% of the state's energy be supplied by renewable energy by 2030. HECO's Feed-In-Tariff (**FIT**) program is designed to encourage the addition of more renewable energy projects in Hawaii. Pre-established FIT rates and standardized FIT contract terms facilitate the process of selling renewable energy to HECO.

The Company, has paid an aggregate of \$144,350; will pay \$124,250 upon commencement of operations (the **COD Date**) and up to another \$35,000 upon the COD Date if costs and expenditures related to the Project equal less than

\$1,850,000 per 500 kW(dc) capacity of the Project on the COD Date.

On August 3, 2012, Blue Earth announced that it acquired the exclusive rights to construct seven different solar PV projects totaling approximately 3.5 megawatts DC in Hawaii. The projects are valued at approximately \$15 million. The projects are located on the island of Oahu and are primarily ground mount solar systems. Six projects acquired by BBLU meet the requirements of the Renewable Energy Tier 2 Feed-in Tariff ( FIT ) offered by HECO. The planned projects will employ local trade people during their construction. Xnergy, Inc. will provide the engineering procurement and construction ( EPC ) for the respective projects.

### **Xnergy Plan of Merger**

Pursuant to the terms and conditions of an Agreement and Plan of Merger (the Plan ), the Company purchased all of the capital stock of Xnergy for a Purchase Price of \$15,012,010 (the Purchase Price ). The Company issued to the two shareholders of Xnergy, D. Jason Davis and Joseph Patalano (the Xnergy Stockholders ) an aggregate of 4,500,000 shares of restricted Common Stock, valued at \$3.00 per share in the merger agreement. However, the common shares were subsequently valued at \$1.72 per share for accounting purposes based upon the average closing price of the Company's common stock from September 8, 2011 through trading on September 26, 2011. The shares are subject to a lock-up period whereby 1,000,000 of the shares are eligible for sale beginning one year from the closing date and the remaining 3,500,000 shares are eligible for sale commencing two years from the Closing Date. The Xnergy Stockholders acquired all of the shares of Xnergy owned by a former stockholder of Xnergy, for \$2,700,000 under an agreement between the parties. The Company paid the Xnergy stockholders \$10.00 and other good and valuable consideration for the right to assume payment to the former stockholder of the unpaid balance of \$1,415,088. The note was paid in full when the former stockholder elected to convert the note into equity on April 11, 2012 for 509,533 shares of common stock valued at \$1.375 per share and on December 21, 2012 for 675,856 shares of restricted common stock valued at \$1.056 per share. See Item 3. Legal Proceedings below for further information on amendments to the foregoing agreements.

The Company simultaneously entered into a Securities Purchase Agreement with Messrs. Davis and Patalano, the members of ecoLegacy LLC, to acquire said company which will continue to serve as a financing vehicle for Xnergy Distributed Energy Projects and is expected to receive recurring revenue from the equity portion of the alternative energy pipeline project described above. The consideration for the acquisition of ecoLegacy LLC was Blue Earth's assumption of \$143,681 liability for legal services rendered to Xnergy. Hence, for valuation purposes, the proper price/share for accounting purposes is \$1.72/share or \$7,740,000 for the shares plus the cash component as stated above.

D. Jason Davis, as CEO of Xnergy, and Joseph Patalano as COO of Xnergy, entered into five-year employment agreements with the Company and D. Jason Davis is expected to become a director of the Company. Their employment agreements include a bonus plan based upon sharing a percentage of earnings above certain minimum thresholds for the three fiscal years ending December 31, 2013. The Xnergy Stockholders each signed a non-competition and non-solicitation agreement extending until two years after voluntary separation from employment. All Xnergy employees, other than Messrs. Davis and Patalano, shall be eligible to participate in the Company's employee stock option plan. Certain key employees, selected by Jason Davis, shall receive a total 66,667 shares issuance based on a formula of years of services and salary and restricted shares of the Company's Common Stock, which shall not be eligible for sale prior to one-year from the Closing.

### **Supply Agreement**

On October 5, 2011, the Company entered into a Retail Petroleum/Convenience Store Energy Efficiency Joint Development Agreement (the "JDA") with General Supply & Services, Inc. ("Gexpro"), of Shelton, Connecticut and G&N Holdings LLC, d/b/a eCORE Technology, of Torrance, California, which was terminated on February 14, 2012, and the Company maintains a relationship with Gexpro. Under the JDA the parties were to market, implement and provide financing to more than 2,000 independently owned retail petroleum/convenience store sites operating in selected North American markets.

Gexpro and other suppliers will supply equipment, including lighting and motors on an individual contract-by-contact basis.

### **Non-Exclusive License and Supply Agreement to SwitchGenie Patented Lighting Controls Technology**

On May 16, 2011, Blue Earth obtained the exclusive perpetual private label license (the "License") and manufacturing rights to an innovative and patented lighting controls technology from SwitchGenie LLC (n/k/a Logica Lighting Controls, LLC, hereinafter "Logica"), and James F. Loughrey. The purchase price consisted of (i) \$100,000 cash; (ii) 150,000 restricted shares of common stock subject to the terms and conditions of a Lock-Up/Leak-Out Agreement; and (iii) a royalty equal to 4% of gross profits from the sale of products utilizing the IP, for a 10 year period, with an

initial review of this and other terms, three years from the execution of the License.

Effective July 30, 2012, the Company entered into a Settlement Agreement and Release of Claims (the Settlement Agreement ) with SwitchGenie, LLC (d/b/a Logica Lighting Controls, LLC, hereinafter referred to as Logica ), Blue Earth Energy Management Inc., James Loughrey and Kaye Loughrey. The parties terminated their Exclusive License and Manufacturing Agreement dated May 16, 2011 (the Exclusive License ) and Consulting Agreements dated May 16, 2011 with each of James Loughrey and Kaye Loughrey (the Consulting Agreements ). On July 30, 2012, Logica, James Loughrey and the Company entered into a Non-Exclusive License and Supply Agreement (the Non-Exclusive License ). Under the Non-Exclusive License, the Company was granted the right to purchase Logica products at 18% over cost. In addition, the Company was granted a non-exclusive license from Logica to use all patents, technology and intellectual property owned by Logica and/or Jim Loughrey. The Company has no manufacturing rights for Logica products.

The Settlement Agreement provided for Logica to return to the Company 75,000 shares of Blue Earth Common Stock, retain 75,000 shares of Blue Earth Common Stock, subject to a lock-up/leak-out agreement, and cancel all warrants to purchase 160,000 shares of Blue Earth Common Stock. The Parties released each other from all obligations under the Exclusive License and Consulting Agreements which were terminated.

This technology is based on distributed intelligence that embeds a microprocessor to control the switch inside a fluorescent ballast. The microprocessor can now control each individual fluorescent tube in either an on/off state using the existing wall switch to send instructions to the smart ballast which controls the on/off state of each tube. As important, each fluorescent tube can be optionally controlled by a wireless device, including a computer, which can control a network of lights in any given facility. The energy cost savings realized are immediate and long term.

The patented technology is an innovative, energy saving solution, that is superior to existing fluorescent dimming, for multi-lamp fluorescent fixtures in commercial, public and industrial buildings including office complexes, universities, schools, warehouses, retail stores, shopping centers, malls, sports arenas and military complexes. By simply replacing the ballast in these fixtures with the patented switch ballast the end user is able to control fixtures and turn on only the number of lamps necessary for a particular application. Typically, electrical energy savings are greater than 50% and ROI of the entire system is typically less than two years and less than one year with rebates.

On May 16, 2011, the Company entered into Consulting Agreements, which were subsequently terminated in January 2012, with Jim and Kaye Loughrey, principals of SwitchGenie, to specify and direct all the manufacturing and quality control activities under the now terminated perpetual License. The 160,000 Warrants issued to Jim and Kaye Loughrey were forfeited under the Settlement Agreement.

### **Rapid Dewatering System (RDS)**

On August 31, 2010, pursuant to a Stock Purchase Agreement, the Company sold to various shareholders including its former Chairman and interim CEO, all of the issued and outstanding common stock of Genesis Fluid Solutions, Ltd. ( GFS ) then a wholly-owned subsidiary. As described under Certain Relationships and Related Transactions - Discontinued Operations , in addition to 6,331,050 shares of Common Stock of the Company and approximately 3,011,000 options and warrants returned to the Company by the purchasers of GFS, we received a 6% royalty on all gross revenues derived from dewatering operations and the sale, lease or licensing arrangements of the Rapid Dewatering System ( RDS ) and/or any of the dewatering boxes of its affiliates until the Company receives \$4 million and a royalty of 3% of gross revenues thereafter not to exceed a cumulative royalty of \$15 million.

The GFS patented RDS removes different types of debris, sediments, and contaminants from waterways and industrial sites, which assists in the recovery of lakes, canals, reservoirs and harbors. The RDS system separates water from the solid materials that are dredged, a process that is known as dewatering. GFS believes its technologies have a variety of benefits for both industry and the environment, however GFS has had very limited revenues to date. Many waterways worldwide suffer from eutrophication or deterioration, leading to the formation of wetlands. This typically results from agricultural run-off and other man-made causes. Some waterways are so polluted and stagnant that their animal and plant life die off and, in the case of rivers and streams, the current ceases to flow. Cleaning a waterway often requires dredging. Dredging empties the water body of large quantities of built-up debris along the bottom, ranging from coarse material, such as shells, organic vegetation and garbage, to sand and fine grained sediment, such as clays, silts and organics.

### **Market Size**



According to a 2009 McKinsey & Company report there are a total of *\$130 billion* worth of energy saving opportunities annually in the U.S. economy that go unrealized. The central conclusion of the report states that energy efficiency offers a vast, low-cost energy resource for the U.S. economy. Significant and persistent barriers will need to be addressed at multiple levels to stimulate demand for energy efficiency and manage its delivery across more than 100 million buildings and literally billions of electronic devices. If executed at scale, a holistic approach would yield gross energy savings of more than \$1.2 trillion, well above the \$520 billion needed through 2020 for upfront investment in efficiency measures (not including program costs). Such a program is estimated to reduce energy consumption in 2010 by 9.1 quadrillion BTU s, roughly 23% of projected demand, potentially abating up to 1.1 gigatons of greenhouse gases annually.

We are focusing our efforts in the multi-billion dollar energy efficiency segment of the clean-tech industry. Energy efficiency companies, sometimes referred to as energy services companies, (ESCO), develop, install and arrange financing for projects designed to improve the energy efficiency of buildings and other facilities. Typical products and services offered by energy efficiency companies include boiler and chiller replacement, HVAC upgrades, lighting retrofits, equipment installations, on-site cogeneration, renewable energy plants, load management, energy procurement, rate analysis, risk management and billing administration. Energy efficiency companies often offer their products and services through ESPCs. Under these contracts, energy efficiency companies assume certain responsibilities for the performance of the installed measures, under assumed conditions, for a portion of the project s economic lifetime. According to a 2010 Lawrence Berkeley National Laboratory study, which analyzes the current size of the energy efficiency services sector, sector growth projections to 2011 and market trends for energy efficiency related services, the sector in aggregate will have annual revenues exceeding \$7 billion in 2011. The above forecast under the high growth scenario for spending in 2015, in the energy efficiency services sector, is estimated to be \$50 billion with ESCO revenues representing twenty-five percent or \$12.5 billion.

According to the American Council for an Energy-Efficient Economy ( ACEEE ) there is approximately 67 billion square feet of commercial floor space in the U.S. Commercial buildings account for 17% of total energy consumed in the U.S. at an average cost of \$1.21 per square foot of commercial floor space. ACEEE points to energy efficiency in buildings as the cleanest, lowest-cost, most sensible way of promoting economic prosperity, energy security and environmental protection.

The ACEEE 2012 State Energy Efficiency Scorecard reports that states are demonstrating their growing interest in energy efficiency as a means to bolster their economies. Governors, state legislators, officials and citizens, increasingly recognize energy efficiency - the kilowatt hours and gallons of gasoline saved that we don't use thanks to improved technologies and practices - as the cheapest, cleanest and quickest energy resource to deploy.

In 2012, energy efficiency continued to build momentum in the states despite the sluggish economic recovery, a partisan political climate and the failure of Congress to develop a comprehensive energy policy. Politicians and citizens are increasingly recognizing that energy efficiency is a key solution to our economic, energy, and environmental challenges. Fully harnessing America's untapped, abundant energy efficiency resource will not only save consumers and businesses money, but will also unleash technological innovation and new business opportunities that create and sustain jobs. As they have over the past decades, states continue to provide the leadership needed to forge an energy-efficient economy, which reduces energy cost, spurs job growth and benefits the environment. Other key findings include:

Massachusetts retained the top spot in the rankings for the second year in a row, having overtaken California last year, based on its continued commitment to energy efficiency under its Green Communities Act of 2008. Among other things the Act spurred greater investments in energy efficiency programs by requiring utilities to save a large and growing percentage of energy every year through efficiency measures.

This year's most improved states are Oklahoma, Montana and South Carolina. All three states significantly increased their budgets for electric efficiency programs in 2011 over previous years, and saved more energy from such programs in 2010 than in 2009.

Joining Massachusetts in the top five are California, New York, Oregon and Vermont, which together comprise a group of truly leading states that have made broad, long-term commitments to developing energy efficiency as a state resource.

Twenty-four states have adopted and adequately funded an Energy Efficiency Resource Standard, which sets a long-term energy savings targets and drives investments in utility-sector energy efficiency programs. The states with the most aggressive savings targets include Arizona, Hawaii, Maryland, Massachusetts, Minnesota, New York, Rhode Island and Vermont.

Utility budgets for electric and natural gas efficiency programs rose to almost \$7 billion in 2011, a 27% increase over a year earlier. Of this, \$5.9 billion went to electric efficiency programs, with the remaining \$1.1 billion for natural gas programs.

Annual savings from customer-funded energy efficiency programs topped 18 million MWh in 2010, a 40% increase over the prior year. This is roughly equivalent to the amount of electricity the state of Wyoming uses each year.

### **Additional Market Drivers**

*Utility Rebate Programs.* In a number of markets throughout the U.S., local electrical utilities and related organizations are offering rebates for the purchase and installation of energy efficient products and systems. Ratepayer funded programs are offered by utilities to encourage load reductions by its customers. These incentives may be structured as one-time up-front rebates on energy efficient equipment or may consist of payments per measured kWh saved over a course of several years. Small commercial businesses can leverage the cost of retrofits with incentives received through ratepayer-funded energy efficiency programs.

Rebate incentives are typically used to buy down utility *retrofit* project costs for energy efficiency programs. The customer can receive the rebate directly from the utility, or the energy service company may assist in identifying programs that the small commercial business may qualify for and may collect the rebate on the customer's behalf.

Many utility companies employ demand side management (DSM) programs to help reduce energy consumption. These regulated programs benefits the customer by subsidizing the first cost of capital improvements that provide long - term energy and operational cost savings. Currently, energy efficiency rebates are only offered by specific electrical utilities and the respective rebate programs and requirements change frequently.

*Rising and Volatile Energy Prices.* Over the past decade, energy-linked commodity prices, including oil, gas, coal and electricity, have all increased and exhibited significant volatility. From 1999 to 2009, average U.S. retail electricity prices have increased by more than 50%.

*Aging and Inefficient Facility Infrastructure.* Many organizations continue to operate with an energy infrastructure that is significantly less efficient and cost-effective than what is now available through more advanced technologies applied to lighting, heating, cooling and other building systems. As these organizations explore alternatives for renewing their aging facilities, they often identify multiple areas within their facilities that could benefit from the implementation of energy efficiency measures, including the possible use of renewable sources of energy.

*Movement Toward Industry Consolidation.* As energy efficiency solutions continue to increase in technological complexity and customers look for service providers that can offer broad geographic and product coverage, we believe smaller niche energy efficiency companies will continue to look for opportunities to combine with larger companies such as the Company that can better serve their customers' needs. Increased market presence and size of energy efficiency companies should, in turn, create greater customer awareness of the benefits of energy efficiency measures.

*Increased Use of Third-Party Financing.* Many organizations desire to use their existing sources of capital for core investments or do not have the internal capacity to finance improvements to their energy infrastructure. These organizations often require innovative structures to facilitate the financing of energy efficiency and renewable energy projects.

## **Castroville Sales and Marketing**

Castroville's key markets in 2012 and 2011 were third-party utility rebate programs, Keep Your Cool rebate program, restaurant and convenience store maintenance and service, consulting and wholesale and Internet sales. Castroville services the San Francisco Bay Area, California's Central Valley region, Sacramento and San Diego, California and Spokane, Washington.

Castroville utilizes direct marketing through seven outside sales representatives, who are compensated with a base salary and commission, and relationships with utility representatives, program representatives and trade organizations

to generate new projects. Castrovilla also maintains the following web sites: [www.BARefrigeration.com](http://www.BARefrigeration.com) (on-line commerce capabilities); [www.BayAreaRefrigeration.com](http://www.BayAreaRefrigeration.com) (redirects to [www.BARefrigeration.com](http://www.BARefrigeration.com)); [www.KeepYourCool.org](http://www.KeepYourCool.org) and [www.blueearthems.com](http://www.blueearthems.com).

### **Castrovilla Customers**

Castrovilla's key customers, in 2012, were KEMA, Keep Your Cool, Ecology Action-Right Lights utility program and the barefrigeration.com web site. In 2011, the key customers were KEMA, Keep your Cool, Ecology Action - Right Lights Program and PECEI - Energy Smart Jobs Program.

### **U.S. Energy Affiliates Financing Agreement**

On December 19, 2011, the Company entered into a Finance Agreement with US Energy Affiliates, Inc. ( USEA ). USEA is a finance company specializing in financing energy efficiency retrofit upgrades with a successful history of financing small businesses, such as gas stations with convenience stores, small hotels/motels and other small businesses. Pursuant to the terms of the Finance Agreement, USEA received 125,000 shares of restricted common stock of the Company, valued at an aggregate amount of \$188,750 or \$1.51 per share of common stock, the ten-day average closing price at the time of negotiations, in exchange for exclusivity in California through September 30, 2012. Exclusivity shall automatically be extended by meeting certain agreed upon performance criteria. USEA will continue to provide financing for the Company's energy efficiency and alternative energy projects in all market sectors throughout the U.S and Canada even if exclusivity for California ends. Following the exclusivity term, on a non-exclusive basis, USEA has agreed to finance Company projects throughout the United States and Canada, in all market sectors subject to certain USEA lending criteria.

## **Xnergy Sales and Marketing**

Since Xnergy is a multi-faceted company with more service offerings than most, there are several unique sales and marketing strategies that are used. These can be both very positive to the business model while being challenging to properly implement. Here is a summary of our sales approach for our varying capabilities:

### **ESCO: Energy Services Company**

For Xnergy as ESCO, our sales and marketing approach is to offer customers customized and all-encompassing energy efficiency solutions tailored to meet their economic, operational and technical needs. The sales process for these opportunities can take up to 24 months, with public agency / governmental customers tending to require the longest sales processes. We identify project opportunities through referrals, conferences, warm leads, cold calls and occasionally through requests for proposals. Our direct sales force develops and follows up on customer leads and, in some cases, works with customers to develop their facility's energy strategies.

The Xnergy plan involves decreasing a facility's energy consumption and demand first through identification of Energy Conservation Measures (ECM's). Through our knowledge of the federal, state, local governmental and utility environment, we assess the availability of energy, utility or environmental-based incentives for usage reductions, which helps us optimize the economic benefits of a proposed project for a customer.

After we have identified and implemented these ECM's, the facility demand has been reduced and now we move on to the self-generation options that would benefit the customer. We can provide these projects turn-key to the customer. Depending on the particular scenario, we can engineer, install, commission, and maintain the system after it is installed. We also are able to offer financing options via lease or PPA's (Power Purchase Agreements). Through a PPA, we would finance the project, then sell the power to the client at a rate less than and/or more consistent than what they get from the utility.

After the project has been completed our Operations & Maintenance group can service and maintain the equipment that was installed. This added value helps ensure our clients that Xnergy wants to be a partner for life and will stand by our projects.

### ***General Contractor***

Xnergy offers engineering, construction, and construction management services to a variety of industries. Xnergy has tradesmen that perform the majority of work for most projects. The trades which are most prevalent for us:

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Mechanical

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Pipefitting/plumbing

.

Electrical

.

Framing/drywall

.

Concrete

Our ability to self-perform these trades enables us to keep costs down for our customers by not having the third-party markups adding margin into projects.

Having engineering and construction capabilities in-house enables Xnergy to provide complete turn-key projects to our clients. Having these abilities also makes it a natural fit for us to perform design-build projects, which save our customers money while also enabling the projects to have the minimum number of challenges/issues.

Knowing our strengths and the types of facilities that most benefit from our services allow us to concentrate sales and marketing efforts on industries such as life sciences, semi-conductor, and other high-technology organizations. We are active participants in associations that involve professionals from these target companies, and use these as networking opportunities to help increase sales leads.

***Service: Operations & Maintenance***

Xnergy offers O&M services for HVAC and energy systems. We offer traditional HVAC services including repairs, retrofits, and preventive maintenance contracts. These contracts can be year-to-year or multi-year. We also offer PM

agreements which essentially provide the client warranty coverage if any of the components we are maintaining break down.



### ***Commissioning***

Our sales and marketing approach for commissioning is similar to our General Construction and Service segments in terms of the target markets. The Xenergy commissioning group, labeled Benchmarcx, performs energy audits, HVAC testing and balancing, and system start-up for all construction and energy projects. Benchmarcx is able to target other general and mechanical contractors that do not have the in-house commissioning capabilities so Benchmarcx can market itself to them. This is done through direct sales and marketing efforts. In addition to these targets, Benchmarcx also focuses on the end-users directly. These include clients occupying space where commissioning is more critical, such as labs, clean rooms, and manufacturing suites.

### **Competition**

#### ***Castroville***

The clean-tech industry is highly competitive. The energy efficiency segment for small commercial businesses is also highly competitive. Castroville competes with various types and sizes of companies ranging from local and national service providers, local refrigeration contractors, such as Egain and Energywise and rebate program administrators. Castroville differentiates itself as the only fully-licensed, comprehensive contractor in Northern California which sells and installs energy efficiency projects through utility rebate programs, and which contracts directly with utilities, allowing it to perform retrofit services and secure rebates for its small and large customers who operate locations served by multiple utilities.

Few contractors in Castroville's market area actually participate in the third-party program process. The reluctance is attributable to the considerable amount of paperwork required for each project. Having completed thousands of applications, however, Castroville is accustomed to preparing the appropriate documents. Because of the new comprehensiveness requirement for refrigeration projects, several of the previously participating companies are no longer qualified. Finally, both the utilities and the third-party administrators have become stricter about contractor participation requirements, which is actively removing unqualified and unscrupulous vendors. As a contractor who is regularly contacted by the utilities and the third-party program administrators to repair issues left behind by others, Castroville's reputation is among the best.

We intend to compete based on the following:

*Comprehensive Service Provider.* We offer to our customers expertise in addressing almost all aspects of energy efficiency. Our staff from acquired companies is expected to provide the capability and flexibility to determine what

energy efficiency measures are best suited to achieve the customer's energy efficiency and environmental goals.

*Independence.* We are an independent company with no affiliation to any equipment manufacturer, utility or fuel company. Unlike affiliated service companies, we have the freedom and flexibility to be objective in selecting particular products and technologies available from different acquisition candidates and suppliers in order to optimize our solutions for customers' particular needs.

*Experienced Management.* Our executive officers each has almost 30 years of experience in founding, acquiring and operating publicly held companies in diverse business sectors.

*Federal and State Qualifications.* The federal governmental program under which federal agencies and departments can enter into ESPCs requires that energy service providers have a track record in the industry and meet other specified qualifications. Over 20 states require similar qualifications. We intend to acquire companies which meet these qualifications. This will provide us with the opportunity to continue to grow our business with federal, state and other governmental customers and differentiates us from energy efficiency companies that have not been similarly qualified.

*Federal.* In 2007, the United States enacted the Energy Independence and Security Act which mandates that federal buildings reduce energy consumption by 30% by 2015 compared to their 2003 baseline and contains multiple provisions promoting long-term ESPCs. The U.S. Department of Energy also has a number of research, development, grant and financing programs - most notably the DOE Loan Guarantee Program - to encourage energy efficiency and renewable energy. Additionally, the United States has adopted federal incentives for renewable energy, including the production tax credit, investment tax credit and accelerated depreciation.

*States.* At the U.S. state level, significant measures to support energy efficiency and renewable energy have been implemented, including as of December 31, 2009, the following:

20 states have adopted energy efficiency resource standards, or EERS, and long-term energy savings targets for utilities.

29 U.S. states and the District of Columbia have renewable portfolio standards, or RPS, in place, and six states have renewable portfolio goals.

14 states have passed legislation enabling a new financing mechanism known as Property Assessed Clean Energy (PACE) Bonds. The bonds provide funds that can be used by commercial and residential property owners to finance efficiency measures and small-scale renewable energy systems.

*Economic Stimuli.* Governments worldwide have allocated significant portions of economic stimuli to clean energy.

Recovery and Reinvestment Act of 2009 allocated \$67 billion to promote clean energy, energy efficiency and advanced vehicles. Additionally, the Emergency Economic Stabilization Act instituted a grant program that provides cash in lieu of the investment tax credit for eligible renewable energy generation sources which commence construction in 2010.

Key factors in the award of contracts include system and service performance, quality, price, design, reputation, technology, application engineering capability and energy management services. Competitors for contracts in the small commercial businesses marketplace include many local, regional, national and international companies with greater resources than we have.

The domestic energy services market for small commercial businesses is *highly fragmented*, which we believe, provides a viable point-of-entry for acquiring established, reputable, profitable energy services companies who are seeking access to growth capital and innovative, commercially proven, cost-effective energy efficient technologies.

There are three principal types of energy efficiency companies:

*Independent Energy Services Companies* - Energy efficiency companies such as the Company, which are not associated with an equipment manufacturer, utility or fuel company. Most of these companies are small and focus either on a specific geography or specific customer base.

*Utility-Affiliated Energy Services Companies* - Companies owned by regulated North American utilities, many of which were traditionally focused on the service territories of their affiliated utilities, but have since expanded their geographical markets. Examples include Constellation Energy Projects and Services and ConEdison Solutions.

*Equipment Manufacturers* - Companies owned by building equipment or controls manufacturers. Many of these companies have a national presence through an extensive network of branch offices. Examples include Honeywell, Johnson Controls and Siemens.

### *Xnergy*

The energy services segment for non-residential customers and utility scale projects is highly fragmented and also highly competitive on a local, regional and national basis. Xnergy competes with various types and sizes of companies ranging from local energy and mechanical services providers including Pacific Rim Mechanical and Apex Mechanical and national energy services providers such as Johnson Controls, Inc. and Ameresco. Xnergy has only a few competitors in the Life Sciences portion of its business including Pacific Building Group and DBC Inc. on a local basis and DPR Construction on a regional and national basis. The competitors in the engineering, procurement and construction (EPC)/alternative energy segment of its business include AECOM, Chevron Energy Solutions on a national basis and solar project installers including Borrego Solar, Helio Power and Sullivan Solar among others on a local basis. Also, several Chinese solar panel manufacturers have begun to provide EPC services as part of their vertical market strategy. The competitors for our commissioning business activities include KEMA, Inc. and MBO, Inc.

Xnergy differentiates itself from its competitors in a number of ways, including providing its customers with an in-depth array of turnkey services and energy efficient products. Xnergy is technology neutral and diligently seeks to locate and provide its clients with the most beneficial technology that is currently available. Xnergy is also unique in its capability to install solar, cogeneration, fuel cells, geothermal and wind-powered systems. The majority of its competitors specialize in designing or installing only one of these types of energy systems. Also in contrast to several of its competitors, Xnergy offers complete engineering and energy analysis (energy auditing or retro-commissioning) to ensure its clients are using their existing energy in the most efficient manner prior to designing an alternative energy option. Xnergy also differentiates itself by being fully licensed and self-performing most of the major and critical trades including electrical, piping, HVAC, plumbing and general construction work. Being vertically integrated with its Service Group allows Xnergy to offer complete after construction O & M services through the life of the energy asset.

## **Government and Environmental Regulation**

### ***Energy Efficiency***

Various regulations will affect the conduct of our business. Federal and state legislation and regulations enable us to enter into ESPCs with government agencies in the United States. The applicable regulatory requirements for ESPCs differ in each state and between agencies of the federal government.

Our projects must conform to all applicable electric reliability, building and safety, and environmental regulations and codes, which vary from place to place and time to time. Various federal, state, provincial and local permits are required to construct an energy efficiency project or renewable energy plant.

### **Intellectual Property**

The Company has applied for trademarks for the names *eecoStation*<sup>TM</sup> and *eecoSmart*<sup>TM</sup>. Xnergy, Inc. has been issued a registered service mark in the name of *Benchmarcx*®.

### **Employees**

As of March 25, 2013, Blue Earth, Inc. had three employees, consisting of its two executive officers and one administrative person. Castrovilla, Inc. had 29 full-time, non-union employees, including its President, John Pink and no part-time employees. Castrovilla employees include 3 key management, 7 in administration, 10 technicians who perform product installation and field service, 6 engaged in sales and marketing and 3 in shop/gasket manufacturing.

Xnergy had 31 full-time non-union employees, and no part-time employees. Xnergy employees include 8 key management, including its Chief Executive Officer and Chief Operating Officer, 3 in sales and business development, 4 in service operations and 16 in construction operations. HVAC Controls & Specialties, Inc. had 10 full-time non-union employees and no part-time employees. HVAC employees include 2 key management including its President, 1 in Sales and Marketing, 6 technicians and 1 in administration.

The Company expects to continue to use subcontractors and independent consultants until such time as further acquisitions are made.

### **Item 1A. Risk Factors.**

Investing in our common stock involves a high degree of risk. Prospective investors should carefully consider the risks described below, together with all of the other information included or referred to in this report, before purchasing shares of our common stock. There are numerous and varied risks that may prevent us from achieving our goals. If any of these risks actually occurs, our business, financial condition or results of operations may be materially adversely affected. In such case, the trading price of our common stock could decline and investors in our common stock could lose all or part of their investment.

#### **Risks Relating to Our Business**

*Since we have limited operating history, it is difficult for potential investors to evaluate our business.*

We completed our initial acquisition as of January 1, 2011 and our second acquisition on September 7, 2011. Therefore, our limited operating history makes it difficult for potential investors to evaluate our business or prospective operations and your purchase of our securities. As an early stage company, we are subject to the risks inherent in the financing, expenditures, complications and delays inherent in a new business. Accordingly, our business and success faces risks from uncertainties faced by developing companies in a competitive environment. There can be no assurance that our efforts will be successful or that we will ultimately be able to attain profitability.

***We are dependent upon key personnel whose loss may adversely impact our business.***

We rely heavily on the expertise, experience and continued services of Dr. Johnny Thomas, our Chief Executive Officer and John Francis, our Vice President-Corporate Development and Investor Relations, as well as other executive employees. Both officers are employed under employment contracts at will, and the loss of either of their services and the inability to replace them and/or attract or retain other key individuals, could materially adversely affect us. If either Dr. Thomas or Mr. Francis were to leave, we could face substantial difficulty in hiring a qualified successor and could experience a loss in productivity while any successor obtains the necessary training and experience. We do not have key man life insurance policies on our management.

***We may need additional financing to execute our business plan and fund operations, which additional financing may not be available on reasonable terms or at all.***

As of December 31, 2012, we had \$659,009 cash on hand. On February 22, 2013, we entered into a credit agreement for a \$10 million line of credit, of which \$1,500,000 was funded on February 22, 2013 and matures on August 22, 2013. In view of our business plan we may not be able to execute same and fund business operations long enough to achieve profitability. Our ultimate success depends upon our ability to raise additional capital. We are pursuing sources of additional capital through various means, including joint venture projects and debt or equity financing. Future financing through equity investments is likely to be dilutive to existing stockholders. Also, the terms of securities we may issue in future capital transactions may be more favorable to new investors than our current investors. Newly issued securities may include preferences, superior voting rights, the issuance of warrants or other derivative securities, and the issuance of incentive awards under employee equity incentive plans, which may have additional dilutive effects. Further, we may incur substantial costs in pursuing future capital and/or financing, including investment banking fees, legal fees, accounting fees, printing and distribution expenses and other costs. We may also be required to recognize non-cash expenses in connection with certain securities we may issue, such as convertible notes and warrants, which will adversely impact our financial condition and results of operations. Our ability to obtain needed financing may be impaired by factors, including the condition of the economy and capital markets, both generally and specifically in our industry, and the fact that we are not profitable, which could impact the availability or cost of future financing. If the amount of capital we are able to raise from financing activities, together with our revenues from operations, is not sufficient to satisfy our capital needs, we may need to reduce our operations accordingly.

***Compliance with environmental laws could adversely affect our operating results.***

Costs of compliance with federal, state, local and other foreign existing and future environmental regulations could adversely affect our cash flow and profitability. We will be required to comply with numerous environmental laws and regulations and to obtain numerous governmental permits in connection with energy efficiency products, and we may incur significant additional costs to comply with these requirements. If we fail to comply with these requirements, we could be subject to civil or criminal liability, damages and fines. Existing environmental regulations

could be revised or reinterpreted and new laws and regulations could be adopted or become applicable to us or our customers, and future changes in environmental laws and regulations could occur. These factors may impose additional expense on our operations.

In addition, private lawsuits or enforcement actions by federal, state, and/or foreign regulatory agencies may materially increase our costs. Certain environmental laws make us potentially liable on a joint and several basis for the remediation of contamination at or emanating from properties or facilities which we may acquire that arranged for the disposal of hazardous substances. Although we will seek to obtain indemnities against liabilities relating to historical contamination at the facilities we own or operate, we cannot provide any assurance that we will not incur liability relating to the remediation of contamination, including contamination we did not cause.

We may not be able to obtain or maintain, from time to time, all required environmental regulatory approvals. A delay in obtaining any required environmental regulatory approvals or failure to obtain and comply with them could adversely affect our business and operating results.



***We will need to increase the size of our organization, and we may experience difficulties in managing growth.***

We are a small company with three full-time employees at the parent level, as of the date of this report. In addition to prospective employees hired from companies which we may acquire, we will need to expand our employee infrastructure for managerial, operational, financial and other resources. Future growth will impose significant added responsibilities on members of management, including the need to identify, recruit, maintain and integrate additional employees. Our future financial performance and our ability to commercialize our product candidates and to compete effectively will depend, in part, on our ability to manage any future growth effectively.

In order to manage our future growth, we will need to continue to improve our management, operational and financial controls and our reporting systems and procedures. All of these measures will require significant expenditures and will demand the attention of management. If we do not continue to enhance our management personnel and our operational and financial systems and controls in response to growth in our business, we could experience operating inefficiencies that could impair our competitive position and could increase our costs more than we had planned. If we are unable to manage growth effectively, our business, financial condition and operating results could be adversely affected.

***Our corporate strategy will not be successful if demand for energy efficiency and renewable energy solutions does not develop.***

We believe, and our corporate strategy assumes, that the market for energy efficiency and renewable energy solutions will continue to grow, that we will increase our penetration of this market and that our revenue from selling into this market will continue to increase with future acquisitions. If our expectations as to the size of this market and our ability to sell our products and services in this market are not correct, our corporate strategy will be unsuccessful and our business will be harmed.

***Certain projects we may undertake for our customers may require significant capital, which our customers or we may finance through third parties, and such financing may not be available to our customers or to us on favorable terms, if at all.***

Certain energy efficiency projects are typically financed by third parties. The significant disruptions in the credit and capital markets in the last several years have made it more difficult for customers to obtain financing on acceptable terms or, in some cases, at all. Any inability by us or our customers to raise the funds necessary to finance our projects, or any inability by us to obtain a revolving credit facility, could materially harm our business, financial condition and operating results.

***Our business may be affected by seasonal trends and construction cycles, and these trends and cycles could have an adverse effect on our operating results.***

We expect that our business will be subject to seasonal fluctuations and construction cycles, particularly in climates that experience colder weather during the winter months, such as the northern United States and Canada, or at educational institutions, where large projects are typically carried out during summer months when their facilities are unoccupied. In addition, government customers, many of which have fiscal years that do not coincide with ours, typically follow annual procurement cycles and appropriate funds on a fiscal-year basis even though contract performance may take more than one year. Further, government contracting cycles can be affected by the timing of, and delays in, the legislative process related to government programs and incentives that help drive demand for energy efficiency and renewable energy projects. As a result, our revenue and operating income in the third quarter is expected to be typically higher, and our revenue and operating income in the first quarter is expected to be typically lower, than in other quarters of the year. As a result of such fluctuations, we may occasionally experience declines in revenue or earnings as compared to the immediately preceding quarter, and comparisons of our operating results on a period-to-period basis may not be meaningful.

***Our business depends in part on federal, state and local government support for energy efficiency and renewable energy, and a decline in such support could harm our business.***

We depend, in part, on government legislation and policies that support energy efficiency and renewable energy projects and that enhance the economic feasibility of our energy efficiency services and small-scale renewable energy projects. The U.S. government and several states support potential customers' investments in energy efficiency and renewable energy through legislation and regulations that authorize and regulate the manner in which certain governmental entities do business with companies like us, encourage or subsidize governmental procurement of our services, provide regulatory, tax and other incentives to others to procure our services and provide us with tax and other incentives that reduce our costs or increase our revenue. Current market conditions have caused various state, local or federal incentive programs which help drive the economics for these projects to be unexpectedly depleted or substantially changed by the administrators.

For example, U.S. legislation in 1992 authorized federal agencies to enter into energy savings performance contracts (ESPCs), such as those which we may enter into with customers at a later date. In 2007, three years after the expiration of the original legislation, new ESPC legislation was enacted without an expiration provision, and in the same year, the President of the United States issued an executive order requiring federal agencies to set goals to reduce energy use and increase renewable energy sources and use. In addition, the American Recovery and Reinvestment Act of 2009 (ARRA) allocated \$67 billion to promote clean energy, energy efficiency and advanced vehicles. Additionally, the Emergency Economic Stabilization Act of 2008 instituted the 1603 cash grant program, which may provide cash in lieu of an investment tax credit for eligible renewable energy generation sources for which construction commences prior to the end of 2010 where the project is placed in service by various dates set out in the act. The Internal Revenue Code (the Code), currently provides production tax credits for the generation of electricity from wind projects and from LFG-fueled power projects, and an investment tax credit or grant in lieu of such tax credits for investments in LFG, wind, biomass and solar power generation projects. Various state and local governments have also implemented similar programs and incentives, including legislation authorizing the procurement of ESPCs.

Prospective customers frequently depend on these programs to help justify the costs associated with, and to finance, energy efficiency and renewable energy projects. If any of these incentives are adversely amended, eliminated or not extended beyond their current expiration dates, or if funding for these incentives is reduced, it could adversely affect our ability to obtain project commitments from new customers. A delay or failure by government agencies to administer, or make procurements under, these programs in a timely and efficient manner could have a material adverse effect on our potential customers' willingness to enter into project commitments with us.

Changes to tax, energy and environmental laws could reduce our prospective customers' incentives and mandates to purchase certain kinds of services that we may supply, and could thereby adversely affect our business, financial condition and operating results.

***A significant decline in the fiscal health of federal, state, provincial and local governments could reduce demand for our energy efficiency and renewable energy projects.***

Recent significant declines in the fiscal health of federal, state and local governmental entities may make it difficult for them to enter into contracts for our services or to obtain financing necessary to fund such contracts.

***Failure of third parties to manufacture quality products or provide reliable services in a timely manner could cause delays in the delivery of our services and completion of our projects, which could damage our reputation, have a negative impact on our relationships with our customers and adversely affect our growth.***

Our success depends on our ability to provide services and products in a timely manner, which, in part, depends on the ability of third parties to provide us with timely and reliable services and products, such as boilers, chillers, cogeneration systems, PV panels, lighting and other complex components. In providing our services we intend to rely on products that meet our design specifications and components manufactured and supplied by third parties, as well as on services performed by subcontractors.

Warranties provided by third-party suppliers and subcontractors typically limit any direct harm we might experience as a result of our relying on their products and services. However, there can be no assurance that a supplier or subcontractor will be willing or able to fulfill its contractual obligations and make necessary repairs or replace equipment. In addition, these warranties generally expire within one to five years or may be of limited scope or provide limited remedies. If we are unable to avail ourselves of warranty protection, we may incur liability to our customers or additional costs related to the affected products and components, including replacement and installation costs, which could have a material adverse effect on our business, financial condition and operating results.

Moreover, any delays, malfunctions, inefficiencies or interruptions in these products or services - even if covered by warranties - could adversely affect the quality and performance of our solutions. This could cause us to experience difficulty retaining current customers and attracting new customers, and could harm our brand, reputation and growth. In addition, any significant interruption or delay by our suppliers in the manufacture or delivery of products or services on which we depend could require us to expend considerable time, effort and expense to establish alternate sources for such products and services.

***We may need to assume responsibility under customer contracts for factors outside our control, including the risk that fuel prices will increase.***

We do not expect to take responsibility under our proposed contracts for a wide variety of factors outside our control. However, we may sometimes need to assume some level of risk and responsibility for certain factors - sometimes only to the extent that variations exceed specified thresholds particularly with contracts for renewable energy projects.

Although we intend to structure our contracts so that our obligation to supply a customer with electricity, for example, does not exceed the quantity produced by the production facility, in some circumstances we may commit to supply a customer with specified minimum quantities based on our projections of the facility's production capacity. In such circumstances, if we are unable to meet such commitments, we may be required to incur additional costs or face penalties. Despite measures to mitigate risks under these and other contracts, such steps may not be sufficient to avoid the need to incur increased costs to satisfy our commitments, and such costs could be material. Increased costs that we are unable to pass through to our customers could have a material adverse effect on our operating results.

***Our business will depend on experienced and skilled personnel, and if we are unable to attract and integrate skilled personnel, it will be more difficult for us to manage our business and complete projects.***

The success of our business will depend on the skill of our personnel. Accordingly, it is critical that we maintain, and continue to build, a highly experienced management team and specialized workforce, including engineers, project and construction management, and business development and sales professionals. In addition, our construction projects require a significant amount of trade labor resources, and other skilled workers, as well as certain specialty subcontractor skills.

Competition for personnel, particularly those with expertise in the energy services and renewable energy industries, is high, and identifying candidates with the appropriate qualifications can be costly and difficult. We may not be able to hire the necessary personnel to implement our business strategy given our anticipated hiring needs, or we may need to provide higher compensation or more training to our personnel than we currently anticipate.

In the event we are unable to attract, hire and retain the requisite personnel and subcontractors, we may experience delays in completing projects in accordance with project schedules and budgets, which may have an adverse effect on our financial results, harm our reputation and cause us to curtail our pursuit of new projects. Further, any increase in demand for personnel and specialty subcontractors may result in higher costs, causing us to exceed the budget on a project, which in turn may have an adverse effect on our business, financial condition and operating results and harm our relationships with our customers.

***We operate in a highly competitive industry, and our current or future competitors may be able to compete more effectively than we do, which could have a material adverse effect on our business, revenue, growth rates and market share.***

Our industry is highly competitive, with many companies of varying size and business models, many of which have their own proprietary technologies, compete for the same business as we do. Our competitors have longer operating histories and greater resources than us, and could focus their substantial financial resources to develop a competing business model, develop products or services that are more attractive to potential customers than what we offer or convince our potential customers that they should require financing arrangements that would be impractical for smaller companies to offer. Our competitors may also offer energy solutions at prices below cost, devote significant sales forces to compete with us or attempt to recruit our key personnel by increasing compensation, any of which could improve their competitive positions. Any of these competitive factors could make it more difficult for us to attract and retain customers, cause us to lower our prices in order to compete, and reduce our market share and revenue, any of which could have a material adverse effect on our financial condition and operating results. We can provide no assurance that we will continue to effectively compete against our current competitors or additional companies that may enter our markets.

In addition, we may also face competition based on technological developments that reduce demand for electricity, increase power supplies through existing infrastructure or that otherwise compete with our products and services. We also encounter competition in the form of potential customers electing to develop solutions or perform services internally rather than engaging an outside provider such as us.

***We may be unable to complete or operate our projects on a profitable basis or as we have committed to our customers.***

Development, installation and construction of energy efficiency and renewable energy projects, and operation of renewable energy projects, entails many risks, including:

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failure to receive critical components and equipment that meet our design specifications and can be delivered on schedule;

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failure to obtain all necessary rights to land access and use;

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failure to receive quality and timely performance of third-party services;

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increases in the cost of labor, equipment and commodities needed to construct or operate projects;

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permitting and other regulatory issues, license revocation and changes in legal requirements;

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shortages of equipment or skilled labor;

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unforeseen engineering problems;

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failure of a customer to accept or pay for renewable energy that we supply;

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weather interferences, catastrophic events including fires, explosions, earthquakes, droughts and acts of terrorism; and accidents involving personal injury or the loss of life;

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labor disputes and work stoppages;

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mishandling of hazardous substances and waste; and

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other events outside of our control.

Any of these factors could give rise to construction delays and construction and other costs in excess of our expectations. This could prevent us from completing construction of projects, cause defaults under financing agreements or under contracts that require completion of project construction by a certain time, cause projects to be unprofitable for us, or otherwise impair our business, financial condition and operating results.

***Provisions in government contracts may harm our business, financial condition and operating results.***



In the event that we are able to secure contracts with the federal government and its agencies, and with state and local governments, these contracts customarily contain provisions that give the government substantial rights and remedies, many of which are not typically found in commercial contracts, including provisions that allow the government to:

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terminate existing contracts, in whole or in part, for any reason or no reason;

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reduce or modify contracts or subcontracts;

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decline to award future contracts if actual or apparent organizational conflicts of interest are discovered, or to impose organizational conflict mitigation measures as a condition of eligibility for an award;

suspend or debar the contractor from doing business with the government or a specific government agency; and

pursue criminal or civil remedies under the False Claims Act, False Statements Act and similar remedy provisions unique to government contracting.

Generally, government contracts contain provisions permitting unilateral termination or modification, in whole or in part, at the government's convenience. Under general principles of government contracting law, if the government terminates a contract for convenience, the terminated company may recover only its incurred or committed costs, settlement expenses and profit on work completed prior to the termination. If the government terminates a contract for default, the defaulting company is entitled to recover costs incurred and associated profits on accepted items only and may be liable for excess costs incurred by the government in procuring undelivered items from another source. The termination payment is designed to compensate us for the cost of construction plus financing costs and profit on the work completed.

In ESPCs for governmental entities, the methodologies for computing energy savings may be less favorable than for non-governmental customers and may be modified during the contract period. In the event we enter into ESPCs, we may be liable for price reductions if the projected savings cannot be substantiated.

In addition to the right of the federal government to terminate its contracts with us, federal government contracts are conditioned upon the continuing approval by Congress of the necessary spending to honor such contracts. Congress often appropriates funds for a program on a September 30 fiscal-year basis even though contract performance may take more than one year. Consequently, at the beginning of many major governmental programs, contracts often may not be fully funded, and additional monies are then committed to the contract only if, as and when appropriations are made by Congress for future fiscal years. If one or more of our government contracts were terminated or reduced, or if appropriations for the funding of one or more of our contracts is delayed or terminated, our business, financial condition and operating results could be adversely affected.

Government contracts normally contain additional terms and conditions that may increase our costs of doing business, reduce our profits and expose us to liability for failure to comply with these terms and conditions. These include, for example:

specialized accounting systems unique to government contracting, which may include mandatory compliance with federal Cost Accounting Standards;

mandatory financial audits and potential liability for adjustments in contract prices;

public disclosure of contracts, which may include pricing information; mandatory socioeconomic compliance requirements, including small business promotion, labor, environmental and U.S. manufacturing requirements; and

requirements for maintaining current facility and/or personnel security clearances to access certain government facilities or to maintain certain records, and related industrial security compliance requirements.

***We plan to expand our business in part through future acquisitions, but we may not be able to identify or complete suitable acquisitions.***

Acquisitions are a significant part of our growth strategy. We plan to use acquisitions of companies or technologies to expand our project skill-sets and capabilities, expand our geographic markets, add experienced management and increase our product and service offerings. However, we may be unable to implement this growth strategy if we cannot identify suitable acquisition candidates, reach agreement with acquisition targets on acceptable terms or arrange required financing for acquisitions on acceptable terms. In addition, the time and effort involved in attempting to identify acquisition candidates and consummate acquisitions may divert members of our management from the operations of our company.

*Any future acquisitions that we may make could disrupt our business, cause dilution to our stockholders and harm our business, financial condition or operating results.*

If we are successful in consummating acquisitions, those acquisitions could subject us to a number of risks, including, but not limited to:

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the purchase price we pay and/or unanticipated costs could significantly deplete our cash reserves or result in dilution to our existing stockholders;

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we may find that the acquired company or technologies do not improve market position as planned;

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we may have difficulty integrating the operations and personnel of the acquired company, as the combined operations will place significant demands on the Company's management, technical, financial and other resources;

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key personnel and customers of the acquired company may terminate their relationships with the acquired company as a result of the acquisition;

.

we may experience additional financial and accounting challenges and complexities in areas such as tax planning and financial reporting;

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we may assume or be held liable for risks and liabilities (including environmental-related costs) as a result of our acquisitions, some of which we may not be able to discover during our due diligence or adequately adjust for in our acquisition arrangements;

.

our ongoing business and management's attention may be disrupted or diverted by transition or integration issues and the complexity of managing geographically or culturally diverse enterprises;

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we may incur one-time write-offs or restructuring charges in connection with the acquisition;

we may acquire goodwill and other intangible assets that are subject to amortization or impairment tests, which could result in future charges to earnings; and

we may not be able to realize the cost savings or other financial benefits we anticipated.

We cannot assure you that we will successfully integrate or profitably manage any acquired business. In addition, we cannot assure you that, following any acquisition, our continued business will achieve sales levels, profitability, efficiencies or synergies that justify acquisition or that the acquisition will result in increased earnings for us in any future period. These factors could have a material adverse effect on our business, financial condition and operating results.

***Insurance and contractual protections may not always cover lost revenue, increased expenses or liquidated damages payments.***

Although we maintain insurance and intend to obtain warranties from suppliers, obligate subcontractors to meet certain performance levels and attempt, where feasible, to pass risks we cannot control to our customers, the proceeds of such insurance, warranties, performance guarantees or risk sharing arrangements may not be adequate to cover lost revenue, increased expenses or liquidated damages payments that may be required in the future.

***If the cost of energy generated by traditional sources does not increase, or if it decreases, demand for our services may decline.***

Decreases in the costs associated with traditional sources of energy, such as prices for commodities like coal, oil and natural gas, or electricity may reduce demand for energy efficiency and renewable energy solutions. Technological progress in traditional forms of electricity generation or the discovery of large new deposits of traditional fuels or international political developments, production and distribution policies of OPEC could reduce the cost of electricity generated from those sources and as a consequence reduce the demand for our solutions. Any of these developments could have a material adverse effect on our business, financial condition and operating results.



***Our activities and operations are subject to numerous health and safety laws and regulations, and if we violate such regulations, we could face penalties and fines.***

We are subject to numerous health and safety laws and regulations in each of the jurisdictions in which we will operate. These laws and regulations require us to obtain and maintain permits and approvals and implement health and safety programs and procedures to control risks associated with our projects. Compliance with those laws and regulations can require us to incur substantial costs. Moreover, if our compliance programs are not successful, we could be subject to penalties or to revocation of our permits, which may require us to curtail or cease operations of the affected projects. Violations of laws, regulations and permit requirements may also result in criminal sanctions or injunctions.

Health and safety laws, regulations and permit requirements may change or become more stringent. Any such changes could require us to incur materially higher costs than we currently have. Our costs of complying with current and future health and safety laws, regulations and permit requirements, and any liabilities, fines or other sanctions resulting from violations of them, could adversely affect our business, financial condition and operating results.

***Our credit facilities and debt instruments contain financial and operating restrictions that may limit our business activities and our access to credit.***

Pursuant to our existing credit facility, all of the Company's and our subsidiaries' assets, other than excluded and future projects are secured with our senior lender. Provisions in our credit facilities and debt instruments impose restrictions on our and certain of our subsidiaries' ability to, among other things:

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incur additional debt;

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pay cash dividends and make distributions;

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make certain investments and acquisitions;

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guarantee the indebtedness of others or our subsidiaries;

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redeem or repurchase capital stock;

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create liens or encumbrances;

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enter into transactions with affiliates;

·  
engage in new lines of business;

·  
sell, lease or transfer certain parts of our business or property;

·  
incur any obligations for capital expenditures of \$100,000 for any single transaction or \$200,000 in any fiscal year;

·  
issue any additional capital stock of the Company or any subsidiary of the Company; and

·  
merge or consolidate.

These agreements also contain other customary covenants, including covenants that require us to meet specified financial ratios and financial tests. We may not be able to comply with these covenants in the future. Our failure to comply with these covenants may result in the declaration of an event of default and cause us to be unable to borrow under our credit facilities and debt instruments. In addition to preventing additional borrowings under these agreements, an event of default, if not cured or waived, may result in the acceleration of the maturity of indebtedness outstanding under these agreements, which would require us to pay all amounts outstanding. If an event of default occurs, we may not be able to cure it within any applicable cure period, if at all. If the maturity of our indebtedness is accelerated, we may not have sufficient funds available for repayment or we may not have the ability to borrow or obtain sufficient funds to replace the accelerated indebtedness on terms acceptable to us or at all.

***If our subsidiaries default on their obligations under their debt instruments, we may need to make payments to lenders to prevent foreclosure on the collateral securing the debt.***



We have formed subsidiaries to own and operate acquired companies. These subsidiaries may incur various types of debt. This debt may be structured as non-recourse debt, which means it is repayable solely from the revenue of the subsidiary and is secured by such subsidiary's assets, and a pledge of our equity interests in such subsidiary. Although subsidiary debt is typically non-recourse to the Company, if a subsidiary of ours defaults on such obligations, then we may from time to time determine to provide financial support to the subsidiary in order to avoid the adverse consequences of a default. In the event a subsidiary defaults on its indebtedness, its creditors may foreclose on the collateral securing the indebtedness, which may result in our losing our ownership interest in the subsidiary. The loss of our ownership interest in a subsidiary or some or all of a subsidiary's assets could have a material adverse effect on our business, financial condition and operating results.

***Difficult conditions in the global capital markets and the economy generally may materially adversely affect our business and results of operations, and we do not expect these conditions to improve in the near future.***

Our results of operations are materially affected by conditions in the global capital markets and the economy generally, both in the U.S. and elsewhere around the world. Concerns over energy costs, geopolitical issues, the availability and cost of credit, the U.S. mortgage market, and the real estate market in the U.S. have contributed to increased volatility and diminished expectations for the economy and the markets going forward. These factors, combined with volatile oil prices, declining business and consumer confidence and increased unemployment, have precipitated an economic slowdown and a global recession. Domestic and international equity markets have been experiencing heightened volatility and turmoil. These events and the continuing market upheavals may have an adverse effect on our business. In the event of extreme prolonged market events, such as the global credit crisis, we could incur significant losses.

***We may be exposed to product liability risks.***

The Company's operations may expose it to potential product liability risks that are inherent in the sale of energy efficiency products. There can be no assurance that product liability claims will not be asserted against the Company.

We plan to have product liability insurance covering sales of any prospective products which we believe will be adequate to cover any product liability exposure we may have. However, product liability insurance is expensive and we may be unable to obtain sufficient insurance coverage at a reasonable cost to protect us against losses. An individual may bring a product liability claim against us if one of our products causes, or is claimed to have caused, an injury or is found to be unsuitable for consumer use. Any product liability claim brought against us, with or without merit, could result in:

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liabilities that substantially exceed our product liability insurance, which we would then be required to pay from other sources, if available;

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an increase of our product liability insurance rates or the inability to maintain insurance coverage in the future on acceptable terms, or at all;

•  
damage to our reputation and the reputation of our products, resulting in lower sales;

•  
regulatory investigations that could require costly recalls or product modifications;

litigation costs; and

the diversion of management's attention from managing our business.

A successful product liability claim or series of claims brought against the Company could have a material adverse effect on the Company's business, financial condition and results of operations.

***We may be sued by third parties who claim that our prospective products infringe on their intellectual property rights.***

We may be exposed to future litigation by third parties based on claims that our prospective products or activities infringe on the intellectual property rights of others or that we have misappropriated the trade secrets of others.

Any litigation or claims against the Company, whether or not valid, could result in substantial costs, could place a significant strain on our financial and managerial resources, and could harm the Company's reputation. In addition, intellectual property litigation or claims could force us to do one or more of the following, any of which could have a material adverse effect on the Company or cause us to curtail or cease its operations:

The sale of a product material to our future operations; or

Obtain a license from the holder of the infringed intellectual property right, which could also be costly or may not be available on reasonable terms.

***We may be subject to damages resulting from claims that the Company or our employees have wrongfully used or disclosed alleged trade secrets of their former employers.***

Upon completion of any acquisitions by the Company, we may be subject to claims that our acquired companies and their employees may have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of former employers or competitors. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. If we fail in defending such claims, in addition to paying money claims, we may lose valuable intellectual property rights or personnel. A loss of key research personnel or their work product could hamper or prevent our ability to commercialize certain products, which could severely harm our business.



***Rapid technological change could make any products that the Company sells obsolete.***

Energy efficiency technologies have undergone rapid and significant change and the Company expects that they will continue to do so. Any products or technologies that we may acquire may become obsolete or uneconomical before the Company recovers the purchase price incurred in connection with their acquisition.

***The obligations associated with being a public company require significant resources and management attention, which may divert from our business operations.***

We are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act), and The Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act. The Exchange Act requires that we file annual, quarterly and current reports with respect to our business and financial condition, proxy statement, and other information. The Sarbanes-Oxley Act requires, among other things, that we establish and maintain effective internal controls and procedures for financial reporting. Our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures as of the end of the period covered by this report were not effective in ensuring that material information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. We will need to hire additional financial reporting, internal controls and other financial personnel in order to develop and implement appropriate internal controls and reporting procedures. As a result, we will incur significant legal, accounting and other expenses. Furthermore, the need to establish the corporate infrastructure demanded of a public company may divert management's attention from implementing our growth strategy, which could prevent us from improving our business, results of operations and financial condition. We have made, and will continue to make, changes to our internal controls and procedures for financial reporting and accounting systems to meet our reporting obligations as a public company. However, the measures we take may not be sufficient to satisfy our obligations as a public company. In addition, we cannot predict or estimate the amount of additional costs we may incur in order to comply with these requirements. We anticipate that these costs will materially increase our selling, general and administrative expenses.

Section 404 of the Sarbanes-Oxley Act requires annual management assessments of the effectiveness of our internal control over financial reporting. In connection with the implementation of the necessary procedures and practices related to internal control over financial reporting, we may identify deficiencies. If we are unable to comply with the internal controls requirements of the Sarbanes-Oxley Act of 2002, then we may not be able to obtain the independent account certifications required by that act, which may preclude us from keeping our filings with the SEC current, and interfere with the ability of investors to trade our securities and our shares to continue to be quoted on the OTC QB or our ability to list our shares on any national securities exchange.

***If we fail to establish and maintain an effective system of internal controls, we may not be able to report our financial results accurately or prevent fraud. Any inability to report and file our financial results accurately and timely could harm our reputation and adversely impact the trading price of our common stock.***

Effective internal controls are necessary for us to provide reliable financial reports and prevent fraud. If we cannot provide reliable financial reports or prevent fraud, we may not be able to manage our business as effectively as we would if an effective control environment existed, and our business and reputation with investors may be harmed.

With each prospective acquisition we may make we will conduct whatever due diligence is necessary or prudent to assure us that the acquisition target can comply with the internal controls requirements of the Sarbanes-Oxley Act.

Notwithstanding our diligence, certain internal controls deficiencies may not be detected. As a result, any internal control deficiencies may adversely affect our financial condition, results of operations and access to capital. We have not performed an in-depth analysis to determine if historical undiscovered failures of internal controls exist, and may in the future discover areas of our internal controls that need improvement.

## Risks Related to our Securities

### *Public company compliance may make it more difficult to attract and retain officers and directors.*

The Sarbanes-Oxley Act and rules implemented by the SEC have required changes in corporate governance practices of public companies. As a public company, these rules and regulations increase our compliance costs and make certain activities more time consuming and costly. As a public company, these rules and regulations may make it more difficult and expensive for us to maintain our director and officer liability insurance and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified persons to serve on our board of directors or as executive officers, and to maintain insurance at reasonable rates, or at all.

### *Our stock price may be volatile.*

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

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our ability to execute our business plan and complete prospective acquisitions;

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changes in our industry;

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competitive pricing pressures;

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our ability to obtain working capital financing;

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additions or departures of key personnel;

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limited public float in the hands of a small number of persons whose sales or lack of sales could result in positive or negative pricing pressure on the market price for our common stock;

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sales of our common stock (particularly following effectiveness of this resale registration statement);

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operating results that fall below expectations;

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regulatory developments;

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economic and other external factors;

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period-to-period fluctuations in our financial results; and

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our inability to develop or acquire new or needed technologies.

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

***We have not paid cash dividends in the past and do not expect to pay cash dividends in the future. Any return on investment may be limited to the value of our common stock.***

We have never paid cash dividends on our common stock and do not anticipate doing so in the foreseeable future. The payment of dividends on our common stock will depend on earnings, financial condition and other business and economic factors affecting us at the time as our board of directors may consider relevant. If we do not pay dividends, our common stock may be less valuable because a return on your investment will only occur if our stock price increases. The Board of Directors set December 31, 2010 as the record date to distribute one Class A Warrant for every two shares held of record by each shareholder on such date as a result of the spin-off of Genesis Fluid Solutions.

While this warrant distribution is similar to a dividend as no investment decision is necessary on the part of stockholders, it is not a dividend. While this warrant distribution is similar to a dividend as no investment decision is necessary on the part of stockholders, it is not a dividend.





***Our shares of common stock are thinly traded, the price may not reflect our value, and there can be no assurance that there will be an active market for our shares of common stock either now or in the future.***

Our shares of common stock are thinly traded, our common stock is available to be traded and is held by a small number of holders, and the price may not reflect our actual or perceived value. There can be no assurance that there will be an active market for our shares of common stock either now or in the future. The market liquidity will be dependent on the perception of our operating business, among other things. We will take certain steps including utilizing investor awareness campaigns and firms, press releases, road shows and conferences to increase awareness of our business, and any steps that we might take to bring us to the awareness of investors may require we compensate consultants with cash and/or stock. There can be no assurance that there will be any awareness generated or the results of any efforts will result in any impact on our trading volume. Consequently, investors may not be able to liquidate their investment or liquidate it at a price that reflects the value of the business, and trading may be at an inflated price relative to the performance of the Company due to, among other things, availability of sellers of our shares.

If an active market should develop, the price may be highly volatile. Because there is currently a low price for our shares of common stock, many brokerage firms or clearing firms are not willing to effect transactions in the securities or accept our shares for deposit in an account. Many lending institutions will not permit the use of low priced shares of common stock as collateral for any loans. Furthermore, our securities are traded on the OTC QB where it is more difficult (1) to obtain accurate quotations, (2) to obtain coverage for significant news events because major wire services generally do not publish press releases about these companies, and (3) to obtain needed capital.

***Our common stock may be deemed a penny stock, which would make it more difficult for our investors to sell their shares.***

Our common stock is currently subject to the penny stock rules adopted under Section 15(g) of the Exchange Act. The penny stock rules generally apply to companies whose common stock is not listed on The Nasdaq Stock Market or another national securities exchange and trades at less than \$4.00 per share, other than companies that have had average revenues of at least \$6,000,000 for the last three years or that have tangible net worth of at least \$5,000,000 (\$2,000,000 if the company has been operating for three or more years). These rules require, among other things, that brokers who trade penny stock to persons other than established customers complete certain documentation, make suitability inquiries of investors and provide investors with certain information concerning trading in the security, including a risk disclosure document and quote information under certain circumstances. Many brokers have decided not to trade penny stocks because of the requirements of the penny stock rules and, as a result, the number of broker-dealers willing to act as market makers in these securities is limited. If we remain subject to the penny stock rules for any significant period, it could have an adverse effect on the market, if any, for our securities. If our securities are subject to the penny stock rules, investors will find it more difficult to dispose of our securities.

***Offers or availability for sale of a substantial number of shares of our common stock may cause the price of our common stock to decline.***

If our stockholders sell substantial amounts of our common stock in the public market, including shares issuable upon the effectiveness of a registration statement, upon the expiration of any statutory holding period under Rule 144, or shares issued upon the exercise of outstanding options or warrants, it could create a circumstance commonly referred to as an overhang and, in anticipation of which, the market price of our common stock could fall. The existence of an overhang, whether or not sales have occurred or are occurring, also could make more difficult our ability to raise additional financing through the sale of equity or equity-related securities in the future at a time and price that we deem reasonable or appropriate. On December 4, 2012, our registration on Form S-1 (No. 333-181420) was declared effective by the SEC. An aggregate of 25,515,461 shares of Common Stock including 8,832,126 shares issuable upon exercise of warrants are registered for resale under the registration statement. In addition, the 1,065,000 shares of common stock issued in the 2009 Merger to the former directors and the 6,872,500 shares of common stock issued in our 2009 Private Placement which are currently issued and outstanding, as well as other shares which were prohibited from being sold for a period of 12 months from when the Company lost its former shell status which ended in November, 2010 are all available for resale.

In general, a non-affiliated person who has held restricted shares for a period of six months, under Rule 144, may sell into the market our common stock all of their shares, subject to the Company being current in its periodic reports filed with the SEC. An affiliate may sell an amount equal to the greater of 1% of the outstanding shares or, if listed on Nasdaq or another national securities exchange, the average weekly number of shares sold in the last four weeks prior to such sale. Such sales may be repeated once every three months, and any of the restricted shares may be sold by a non-affiliate without any restriction after they have been held one year.

***Because our directors and officers are among our largest stockholders, they can exert significant control over our business and affairs and have actual or potential interests that may depart from those of our other stockholders.***

Our directors and officers and/or their affiliates beneficially own or control approximately 28% of the issued and outstanding common stock and a larger percentage on a fully diluted basis. In addition, the holdings of our directors and executive officers may increase in the future upon vesting or other maturation of exercise rights under any of the options or warrants they may hold or in the future be granted or if they otherwise acquire additional shares of our common stock. As a result, in addition to their board seats and offices, such persons will have significant influence over and control all corporate actions requiring stockholder approval, irrespective of how the Company's other stockholders, may vote, including the following actions:

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to elect or defeat the election of our directors;
- .  
to amend or prevent amendment of our Certificate of Incorporation or By-laws;
- .  
to effect or prevent a merger, sale of substantially all assets or other corporate transaction; and
- .  
to control the outcome of any other matter submitted to our stockholders for vote.

In addition, these persons' stock ownership may discourage a potential acquirer from making a tender offer or otherwise attempting to obtain control of the Company, which in turn could reduce our stock price or prevent our stockholders from realizing a premium over our stock price.

***Exercise of options and warrants and conversion of preferred stock may have a dilutive effect on our common stock.***

If the price per share of our common stock at the time of exercise of any warrants, options, or any other convertible securities is in excess of the various exercise or conversion prices of these convertible securities, exercise or conversion of these convertible securities would have a dilutive effect on our common stock. As of February 22, 2013, we had outstanding and reserved derivative securities, which if exercised would issue 22,670,475 shares of Common Stock, consisting (i) outstanding options to purchase 960,761 shares of our common stock; (ii) outstanding management Warrants issued on September 1, 2010 to purchase 2,000,000 shares of common stock at an exercise price of \$1.00 per share, of which 2,000,000 shares are vested and exercisable as of December 31, 2012 and 1,697,838 warrants are currently outstanding, as 302,162 shares had been issued as of February 22, 2013); (iii) outstanding performance warrants issued to Management to purchase 2,000,000 shares of common stock currently exercisable at \$0.01 per share of which 1,720,000 warrants are currently outstanding, as 280,000 shares had been issued as of February 22, 2013); (iv) outstanding warrants issued on February 24, 2011 to a Board Member under a consulting agreement to purchase 500,000 shares (of which 62,500 shares were assigned to his then employer) at an exercise price of \$1.24 per share (subject to reduction); 1,000,000 shares at \$0.01 pursuant to an Independent Consulting Agreement dated November 6, 2012 and 212,500 shares at \$0.01 as equity compensation for a loan to the Company; (v) outstanding warrants to purchase 500,000 shares at \$1.74 per share (reduced to \$0.01 per share when our Common Stock closes at or above \$1.75 per share) granted on December 21, 2011 and 600,000 shares exercisable at \$0.01 per share (originally \$1.39 per share) granted on April 19, 2012 to a consultant for investor relations services; (vi) 241,600 shares of Series A Convertible Preferred Stock outstanding convertible into 2,416,000 shares of common stock; (vii) 257,802 shares of Series B Convertible Preferred Stock outstanding convertible into 2,578,020 shares of Common Stock; (viii) placement agent warrants to purchase 215,750 shares of Common Stock at an exercise price of \$1.75 per share; (ix) warrants to purchase 900,000 shares of Common Stock exercisable at \$1.16 per share granted effective March 15, 2012 to two officers of a Company subsidiary, of which 100,000 warrants were exercised; (x) warrants to purchase 400,000 and 300,000 shares of Common Stock exercisable at \$1.34 and \$1.32 per share, respectively, granted on May 7, 2012 to two independent consultants; (xi) Class A Warrants to purchase 8,832,126 shares of common stock at an exercise price of \$3.00 per share issued in our Series A and Series B Preferred Stock Offerings, as well as to all shareholders of record (5,927,616 shares) on December 31, 2010; (xii) Bridge Warrants to purchase up to 50,000 shares of Common Stock exercisable at \$0.10 per share issued in connection with our May - July 2012 Bridge Financing; and (xiv) Warrants to purchase 100,000 shares of Common Stock exercisable at \$1.00 per share to a law firm.

Upon exercise of the aggregate 8,832,126 Class A Warrants, warrant holders will receive 8,832,126 Class B Warrants to purchase 8,832,126 shares of common stock at an exercise price of \$6.00 per share. Upon exercise of the outstanding Class B Warrants, warrant holders will receive 8,832,126 Class C Warrants to purchase 8,832,126 shares of common stock at an exercise price of \$12.00 per share, all of which are issuable under our 2011 and 2012 Preferred Stock Offerings and December 31, 2010 distributions. An additional 17,664,252 shares of Common Stock are issuable upon full exercise of the Class A and Class B Warrants. The Class B and C Warrants have not been registered for resale under this Registration Statement. Further, any additional financing that we secure may require the granting of rights, preferences or privileges senior to those of our common stock and which result in additional dilution of the existing ownership interests of our common stockholders.

***Possible redemption of warrants.***

The Company may redeem each Class A, B and C Warrants at \$.001 per warrant on 20 days prior written notice. However, the Company shall have the option, without further compensation to the holder other than the payment of the redemption price per warrant: (a) to cause any or all of the warrants which were not properly exercised on or before the redemption date to be assigned to one or more third parties (each, a Standby Purchaser), effectively immediately upon the redemption date, for the consideration equal to \$.001 per non-exercised warrant payable to the Company, (b) each Standby Purchaser shall have the right to exercise the non-exercised warrants so assigned to such Standby Purchaser through the tenth business day following the redemption date, and (c) any Standby Purchaser would be deemed to be an underwriter within the meaning of the Securities Act and subject to the prospectus delivery requirements of the Securities Act. The Company has not entered into any agreements, arrangements or understandings with any Standby Purchaser. The Company would need to file a prospectus supplement or post-effective amendment to disclose any warrant redemption and assignment to a Standby Purchaser who would be identified as an underwriter. Redemption of the warrants could force the holders to exercise the warrants and pay the exercise price at a time when it may be disadvantageous for the holders to do so, sell the warrants at the then current market price when they might otherwise wish to hold the warrants, or to accept the redemption price, which is substantially less than the market value of the warrants at the time of redemption.

In addition, if the warrants are exercised in response to a redemption notice, then dilution could occur from the widespread conversion or exercise of the warrants. Further, this may cause significant downward pressure on the price of our Common Stock as holders that elect to convert or exercise their securities may be able to resell the shares of Common Stock issuable upon conversion or exercise of the warrants in the open market.

***Because we became public by means of a reverse merger, we may not be able to attract the attention of major brokerage firms.***

There may be risks associated with us becoming public through a reverse merger. Securities analysts of major brokerage firms may not provide coverage of us since there is no incentive to brokerage firms to recommend the purchase of our common stock. No assurance can be given that brokerage firms will, in the future, want to conduct

any offerings on behalf of our company.

***Our certificate of incorporation allows for our board of directors to create new series of preferred stock without further approval by our stockholders, which could act as an anti-takeover device.***

Our board of directors has the authority to fix and determine the relative rights and preferences of preferred stock. On September 28, 2011, the board of directors had authorized the issuance of up to 300,000 shares of Series A Preferred Stock convertible on a ten for one basis into common stock and 297,067 shares of Series A Preferred Stock were issued. On March 30, 2012, our Board of Directors authorized the issuance of up to 300,000 shares of Series B Preferred Stock convertible on a ten for one basis with Common Stock and 283,052 shares of Series B Preferred Stock were issued. Our board of directors also has the authority to issue preferred stock without further stockholder approval. As a result, our board of directors could authorize the issuance of series of preferred stock that would grant to holders the preferred right to our assets upon liquidation, the right to receive dividend payments before dividends are distributed to the holders of common stock and the right to the redemption of the shares, together with a premium, prior to the redemption of our common stock. In addition, our board of directors could authorize the issuance of series of preferred stock that have greater voting power than our common stock or that are convertible into our common stock, which could decrease the relative voting power of our common stock or result in dilution to our existing stockholders. Unless the nature of a particular transaction and applicable statute require such approval, the Board of Directors has the authority to issue these shares without stockholder approval subject to approval of the holders of our preferred stock. The issuance of preferred stock may have the effect of delaying or preventing a change in control of the Company without any further action by the stockholders.

***Provisions in our charter documents and Nevada law could discourage or prevent a takeover, even if an acquisition would be beneficial to our stockholders.***

Provisions of our certificate of incorporation and by-laws, as well as provisions of Nevada law, could make it more difficult for a third party to acquire us, even if doing so would be beneficial to our stockholders. These provisions include:

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authorizing the issuance of blank check preferred that could be issued by our Board of Directors to increase the number of outstanding shares and thwart a takeover attempt;

.  
prohibiting cumulative voting in the election of directors, which would otherwise allow less than a majority of stockholders to elect director candidates; and

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advance notice provisions in connection with stockholder proposals that may prevent or hinder any attempt by our stockholders to bring business to be considered by our stockholders at a meeting or replace our board of directors.

### ***Forward Looking Statements***

This prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. These statements relate to future events or future predictions, including events or predictions relating to our future financial performance, and are generally identifiable by use of the words "may," "will," "should," "expect," "plan," "anticipate," "believe," "feel," "confident," "estimate," "intend," "predict," "forecast," "potential" or "continue" or the negative of such terms or other variations on these words or comparable terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks described under "Risk Factors" that may cause the Company's or its industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements. In addition to the risks described in Risk Factors, important factors to consider and evaluate in such forward-looking statements include: (i) general economic conditions and changes in the external competitive market factors which might impact the



Company's results of operations; (ii) unanticipated working capital or other cash requirements including those created by the failure of the Company to adequately anticipate the costs associated with acquisitions and other critical activities; (iii) changes in the Company's corporate strategy or an inability to execute its strategy due to unanticipated changes; (iv) the inability or failure of the Company's management to devote sufficient time and energy to the Company's business; and (v) the failure of the Company to complete any or all of the transactions described herein on the terms currently contemplated. In light of these risks and uncertainties, many of which are described in greater detail elsewhere in this Risk Factors discussion, there can be no assurance that the forward-looking statements contained in this prospectus will in fact transpire.

Although the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither the Company nor any other person assumes responsibility for the accuracy and completeness of such statements. We do not undertake any duty to update any of the forward-looking statements after the date of this prospectus to conform such statements to actual results or changes in our expectations.

## **Item 2. Properties.**

The Company's executive offices are located at 2298 Horizon Ridge Parkway, Suite 205, Henderson, NV 89052; Tel (702) 263-1808. The Company entered into a 37 month lease for the facility commencing in December 2010 at a monthly rental of \$3,000 for approximately 2,500 square feet of office space. Castroville's executive offices are located at 253 Polaris Avenue, Mountain View, California under a lease ending on June 30, 2012. The monthly rental is \$5,000 for approximately 7,300 square feet of space, which features one conference room and shop and can accommodate three crews per day manufacturing gaskets. Castroville's fixed assets include numerous vehicles; minor machinery and equipment such as gasket welders, a gasket sealing stand and jigs, a fume exhauster and blower, and office equipment.

Xnergy's executive offices are located at 2721 Loker Avenue, West Carlsbad, CA 92010. The monthly rental is \$22,000 for approximately 16,672 square feet of manufacturing and office space. Pursuant to a Letter of Intent for Terms and Purchase of Gosselin's Investment in Xnergy (the Term Sheet), dated June 17, 2008, Xnergy's management, D. Jason Davis and Joseph Patalano, severed or amended all business relationships with a co-founder, Jeff Gosselin. Xnergy is paying Gosselin \$22,000 per month for rent on its premises. See Legal Proceedings below.

### **Item 3. Legal Proceedings.**

From time to time, the Company may become involved in litigation relating to claims arising out of its operations in the normal course of business. Except as described below, no legal proceedings, government actions, administrative actions, investigations or claims are currently pending against us or involve the Company which, in the opinion of the management of the Company, could reasonably be expected to have a material adverse effect on its business or financial condition.

There are no proceedings in which any of the directors, officers or affiliates of the Company, or any registered or beneficial stockholder, is an adverse party or has a material interest adverse to that of the Company.

### **Item 4. Mine Safety Disclosures**

Not applicable





## PART II

### **Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.**

Our common stock has been quoted on the OTC Bulletin Board under the symbol BBLU.OB since October 29, 2010. Prior thereto, from November 23, 2009 through October 28, 2010, it was quoted under the symbol GSFL.OB. Prior to November 23, 2009, there was no active market for our common stock. As of March 28, 2013, there were 92 holders of record of our common stock.

The following table sets forth the high and low bid prices for our common stock for the periods indicated, as reported by the OTC Bulletin Board. The quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission, and may not represent actual transactions.

| <b>Period</b>                             | <b>High</b> | <b>Low</b> |
|---|-------------|------------|
| <u>Year Ending December 31, 2013</u>      |             |            |
| January 1, 2013 through February 28, 2013 | \$ 1.22     | \$ 0.96    |
| <u>Year Ended December 31, 2012</u>       |             |            |
| October 1, 2012 through December 31, 2012 | \$ 1.50     | \$ 0.99    |
| July 1, 2012 through September 30, 2012   | \$ 1.70     | \$ 1.00    |
| April 1, 2012 through June 30, 2012       | \$ 1.45     | \$ 1.00    |
| January 1, 2012 through March 31, 2012    | \$ 1.50     | \$ 1.01    |
| <u>Year Ended December 31, 2011</u>       |             |            |
| October 1, 2011 through December 31, 2011 | \$ 2.50     | \$ 0.81    |
| July 1, 2011 through September 30, 2011   | \$ 1.95     | \$ 0.81    |
| April 1, 2011 through June 30, 2011       | \$ 1.45     | \$ 0.86    |
| January 1, 2011 through March 31, 2011    | \$ 2.10     | \$ 1.10    |

The last reported sales price of our common stock on the OTC Bulletin Board on March 28, 2013, was \$1.18 per share.

#### **Dividend Policy**

We have not declared nor paid any cash dividend on our common stock, and we currently intend to retain future earnings, if any, to finance the expansion of our business, and we do not expect to pay any cash dividends in the foreseeable future. The decision whether to pay cash dividends on our common stock will be made by our board of directors, in their discretion, and will depend on our financial condition, results of operations, capital requirements and other factors that our board of directors considers significant. The Board of Directors set December 31, 2010 as the record date to distribute one Class A Warrant for every two shares held of record by each shareholder on such date as a result of the spin-off of Genesis Fluid Solutions. While this warrant distribution is similar to a dividend as no investment decision is necessary on the part of stockholders, it is not a dividend. While this warrant distribution is similar to a dividend as no investment decision is necessary on the part of stockholders, it is not a dividend.

**Issuer Purchases**

None.

**Item 6. Selected Financial Data.**

Not applicable.

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

The following discussion and analysis should be read in conjunction with our consolidated financial statements and related notes appearing elsewhere in this prospectus. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties, and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including but not limited to those set forth under "Risk Factors".

***New Accounting Pronouncements***

See Note 2 to our audited condensed consolidated financial statements for a discussion of recently issued accounting pronouncements.

***Critical Accounting Estimates***

Management's discussion and analysis of financial condition and results of operations is based upon our unaudited condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these unaudited condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our estimates and assumptions, including, but not limited to valuation of accounts receivable and allowance for doubtful accounts, those related to the estimates of depreciable lives and valuation of property and equipment, valuation of derivatives, valuation of payroll tax contingencies, valuation of share-based payments, and the valuation allowance on deferred tax assets.

**Company Overview**

Blue Earth, Inc. and subsidiaries (the "Company") is a comprehensive provider of energy efficiency and alternative/renewable energy solutions for facilities primarily located in west coast states. In addition, strategic acquisitions of energy management services and alternative/renewable energy companies have been an integral part of our development. The Company provides energy efficiency services including energy management, energy audits and reducing energy consumption through retrofits of lighting, refrigeration and HVAC for small commercial business. The Company also develops, designs, builds and implements technologies such as solar, fuel cells and combined heat and power ("CHP") for alternative and renewable energy projects. The Company also finances renewable and alternative energy projects through industry relationships.

## **Results of Operations**

Our revenues are derived from professional services contracts to provide energy service management and technology.

### **Twelve Months Ended December 31, 2012 Compared with Twelve Months Ended December 31, 2011**

We acquired Xenergy, Inc. effective September 7, 2011. The following Management's Discussion and Analysis is prepared to provide an understanding of the Company's business activities. We have also provided pro forma numbers as though the acquisitions were effective January 1, 2011 so that the numbers are comparable.

#### ***Revenues***

We recognized \$9,966,073 revenue for the twelve months ended December 31, 2012, as compared to \$5,315,664 for the twelve months ended December 31, 2011. Revenue represents sales from our, wholly-owned subsidiaries Castrovilla, whose sales include retrofitting refrigeration equipment with energy management systems and gasket sales, HVAC Controls & Specialties, Inc. whose sales include the installation and management of heating and air conditioning systems and from the Company's wholly-owned subsidiary Xenergy, Inc. which provides a wide range of energy solutions, including specialized mechanical engineering and the design, construction and implementation of energy savings products. During 2012, Castrovilla's sales (\$3,444,821) for the twelve months accounted for 34.6% of total revenues, while Xenergy's sales accounted for 50.4% (\$5,022,144) and HVAC's sales accounted for 15.0% (\$1,499,108). During 2011, Castrovilla's sales (\$3,858,020) for the twelve months represented 72.6% of total revenues, while HVAC's sales accounted for 7.6% (\$405,060) and Xenergy's sales accounted for 19.8% (\$1,052,584) for the four month period owned by the Company. Now that management has secured project finance, the Company's revenues in 2013 should exceed 2012 revenues.



### ***Pro Forma Revenues***

We recognized \$9,966,073 revenue for the twelve months ended December 31 2012, as compared to pro forma \$8,682,109 for the twelve months ended December 31, 2011. Revenue represents sales from the Company's wholly-owned subsidiaries. HVAC and Xnergy sales for the twelve months increased by 35% to \$6,521,252 (from \$4,824,089), Castrovilla's sales for the twelve months decreased by 11%, (from \$3,858,020 to \$3,444,821). The increase in Xnergy sales was the direct result of allocating most of Xnergy's resources to development of a pipeline of solar and alternative energy construction projects. Now that management has secured project finance, Xnergy's revenues in 2013 should exceed 2012 revenues.

### ***Cost of Sales and Gross Profit***

Cost of sales for the twelve months ended December 31, 2012 were \$6,383,645, compared to \$2,838,277, for the twelve months ended December 31, 2011, resulting in a gross profit of \$3,582,428, or 35.9% of revenues. HVAC's gross margin was \$725,299 or 48.4%, Castrovilla's gross margin was \$1,635,126, or 47.5% of revenues while Xnergy's gross margin was \$1,222,003, or 24.3%.

### ***Pro Forma Cost of Sales and Gross Profit***

Cost of sales for the twelve months ended December 31, 2012 were \$6,383,645, compared to \$4,999,550 for the twelve months ended December 31, 2011, resulting in a gross profit of \$3,582,428, or 35.9% of revenues. In 2011 Castrovilla's gross margin was, \$2,264,721, or 58.7% of revenues while HVAC and Xnergy's pro forma gross margin was \$1,417,838, or 29.3%. Castrovilla's new products have higher gross margins than they had in 2011. Xnergy was unable to finance projects in 2011 prior to acquisition by the Company, resulting in lower sales and the related cost of sales.

### ***Operating Expenses***

Operating expenses were \$14,853,118 for the twelve months ended December 31, 2012 as compared to \$15,653,840 for the twelve months ended December 31, 2011, a decrease of \$820,722 or 5%, due to the cost cutting measures implemented after the acquisitions of Castrovilla and Xnergy. Approximately \$2,666,656 of the total expenses for the twelve months ended December 31, 2012 were from the operations of Castrovilla, \$685,229 were from HVAC and \$2,832,353 were from Xnergy with the balance \$8,668,880 from the administrative expenses of Blue Earth. Approximately \$2,833,569 of the total expenses for the twelve months ended December 31, 2011 were from the operations of Castrovilla and \$1,165,584 were from HVAC and Xnergy with the balance \$10,434,918 from the

administrative expenses of Blue Earth.

***Pro Forma Operating Expenses***

Operating expenses were \$14,853,118 for the twelve months ended December 31, 2012 as compared to \$16,988,629 for the twelve months ended December 31, 2011, a decrease of \$2,135,511 due to the administrative costs of Blue Earth. Approximately \$2,666,656 of the total expenses for the twelve months ended December 31, 2012 were from the operations of Castrovilla, \$685,229 were from HVAC and \$2,832,353 were from Xnergy with the balance \$8,668,880 from the administrative expenses of Blue Earth. Approximately \$2,833,569 of the total expenses for the twelve months ended December 31, 2011 were from the operations of Castrovilla and \$3,752,001 were from Xnergy with the balance \$10,403,059 from the administrative expenses of Blue Earth, Inc. The administrative costs of Blue Earth include \$1,100,798 from the amortization of intangible assets acquired with Castrovilla and Xnergy and \$9,019,662 for the value of common stock and stock purchase options and warrants.

***Net Loss***

The net loss from continuing operations for the twelve months ended December 31, 2012 was \$9,607,134, a \$4,411,852 or 31% decrease from the \$14,018,986 for the twelve months ended December 31, 2011. This translates to a loss per share of \$0.51 in 2012 compared to \$0.93 in 2011.

***Pro Forma Net Loss***

The net loss from operations for the twelve months ended December 31, 2011 was \$14,108,343, a \$3,956,189 or 28% decrease over the net loss of \$10,152,154 for the twelve months ended December 31, 2012. This translates to a loss per share of \$0.93 in 2011 compared to \$0.51 in 2012.

## Liquidity and Capital Resources as of December 31, 2012

Net cash used in operations during the twelve months ended December 31, 2012 ( Fiscal 2012 ) totaled \$5,528,856 which resulted primarily from the operating expenses associated with the parent company related to carrying out our business plan. In addition to a net loss of \$9,607,134, the Company realized a decrease in the warrant derivative liability of \$2,037,325 an increase in accounts receivable and billings in excess of costs of \$2,528,555 and an increase in construction in progress and prepaid expenses and deposits totaling \$705,705. These decreases were partially offset by common stock and options issued for services totaling at \$4,307,594 and \$2,541,961 of depreciation and amortization expense.

Net cash used in continuing operations during the twelve months ended December 31, 2011 totaled \$4,157,890 which resulted primarily from the operating expenses associated with the parent company related to carrying out our business plan. In addition to a net loss of \$14,018,986, the Company incurred an increase in the warrant derivative liability of \$749,166 an increase in inventory of \$347,174 and a decrease in accounts payable and accrued expenses of \$403,769 that was partially offset by common stock, options and warrants issued for services expensed at \$863,052 and \$7,809,893, respectively, and \$1,209,769 of depreciation and amortization expense.

Net cash used in investing activities during fiscal 2012 totaled \$10,188 and resulted from the purchase of property and equipment. Net cash used in investing activities during Fiscal 2011 totaled \$1,403,181 and resulted from the purchase of Xenergy and Castrovilla for \$1,185,392, \$100,000 for the purchase of the SwitchGenie license and \$117,789 for the purchases of property and equipment.

Net cash provided by financing activities during Fiscal 2012 totaled \$5,670,945 and resulted from \$3,598,388 of proceeds from the sale of preferred stock, \$1,605,000 of cash from related party loans and \$1,208,008 from notes payable. These proceeds were offset, in part, by payments on notes payable of \$825,785 and related party loans of \$6,614.

Net cash provided by financing activities during Fiscal 2011 totaled \$2,188,083 and resulted from \$2,000,000 of proceeds from the sale of preferred stock, \$1,800,978 of cash in the new subsidiaries offset, in part, by payments on notes payable of \$1,629,231.

At December 31, 2012, we had a working capital deficit of \$676,317 including \$659,009 in cash and cash equivalents. At December 31, 2011, we had a working capital deficit of \$3,515,571 including \$527,108 in cash. The decrease in working capital was the result of the assumption of the negative working capital of Xenergy.

Revenues from Castrovilla commenced on January 1, 2011 and from Xenergy on September 1, 2011. We anticipate our revenue generating activities to continue and even increase as we seek and make acquisitions. Our consolidated financial statements were prepared assuming that we would continue as a going concern irrespective of our recurring losses, accumulated deficits and negative cash flows from operations. Our ability to continue as a going concern is subject to our ability to generate profits and/or obtain necessary funding from outside sources, including by the sale of our securities, or obtaining loans from lenders, where possible. Our continued net operating losses increase the difficulty of our meeting these goals, and our efforts to continue as a going concern may not prove successful. Nonetheless, the Company expects that it has sufficient cash and borrowing capacity to meet its working capital needs for at least the next 12 months. Historically, we have financed our working capital and capital expenditure requirements primarily from the sales of our equity securities. We may seek additional equity and/or debt financing in order to implement our business plan. From September 2011 through December 31, 2011, we completed a private placement of Preferred Stock and warrants of \$5,598,388, which we believe will fund our operations at least through December 31, 2013. On February 22, 2013, we entered into an credit agreement with a \$10 million line of credit of which \$1,500,000 was funded on February 22, 2013 and matures on August 22, 2013. It is reasonably possible that we will not be able to obtain sufficient financing to continue operations beyond the next 12 months. Furthermore, any additional equity or convertible debt financing will be dilutive to existing shareholders and may involve preferential rights over common shareholders. Debt financing, with or without equity conversion features, may involve restrictive covenants.

#### ***Related Party Transactions***

No related party transactions had a material impact on our operating results for the twelve months ended December 31, 2012.

### ***New Accounting Pronouncements***

See Note 2 to our unaudited condensed consolidated financial statements for a discussion of recently issued accounting pronouncements.

### ***Critical Accounting Estimates***

Management's discussion and analysis of financial condition and results of operations is based upon our unaudited condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these unaudited condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our estimates and assumptions, including, but not limited to, valuation of accounts receivable and allowance for doubtful accounts, those related to the estimates of depreciable lives and valuation of property and equipment, valuation of derivatives, valuation of payroll tax contingencies, valuation of share-based payments, and the valuation allowance on deferred tax assets.

### **Off-Balance Sheet Arrangements**

Since our inception, except for standard operating leases, we have not engaged in any off-balance sheet arrangements, including the use of structured finance, special purpose entities or variable interest entities.

### ***Use of Estimates***

Management's discussion and analysis of financial condition and results of operations is based upon our unaudited condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these unaudited condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our estimates and assumptions, including, but not limited to valuation of accounts receivable and allowance for doubtful accounts, those related to the estimates of depreciable lives and valuation of property and equipment, valuation of derivatives, valuation of payroll tax contingencies, valuation of share-based payments, and the valuation allowance on deferred tax assets.

***Accounts Receivable***

The Company records accounts receivable related to its construction contracts based on billings or on amounts due under the contractual terms. Accounts receivable throughout the year may decrease based on payments received, credits for change orders, or back charges incurred.

Management reviews accounts receivable periodically to determine if any receivables will potentially be uncollectible. Management's evaluation includes several factors including the aging of the accounts receivable balances, a review of significant past due accounts, economic conditions, and our historical write-off experience, net of recoveries. The Company includes any accounts receivable balances that are determined to be uncollectible, along with a general reserve, in its allowance for doubtful accounts. After all attempts to collect a receivable have failed, the receivable is written off against the allowance.

***Revenue Recognition***

The Company generates revenues from professional services contracts. Customers are billed, according to individual agreements. Revenues from professional services are recognized on a completed-contract basis, in accordance with ASC Topic 605-35, Construction-Type and Production-Type Contracts. Under the completed-contract basis, contract costs are recorded to a deferred asset account and billings and/or cash received are recorded to a deferred revenue liability account during the periods of construction. Costs include direct material, direct labor and subcontract labor. All revenues, costs, and profits are recognized in operations upon completion of the contract. A contract is considered complete when all costs except insignificant items have been incurred and final acceptance has been received from the customer. Corporate general and administrative expenses are charged to the periods as incurred. However, in the event a loss on a contract is foreseen, the Company will recognize the loss as incurred.

For uncompleted contracts, the deferred asset (accumulated contract costs) in excess of the deferred liability (billings and/or cash received) is classified under current assets as Costs in excess of billings on uncompleted contracts. The deferred liability (billings and/or cash received) in excess of the deferred asset (accumulated contract costs) is classified under current liabilities as Billings in excess of costs on uncompleted contracts. Contract retentions are included in accounts receivable.

### ***Income Taxes***

The Company uses the asset and liability method of accounting for income taxes in accordance with ASC Topic 740, Income Taxes. Under this method, income tax expense is recognized for the amount of: (i) taxes payable or refundable for the current year, and (ii) deferred tax consequences of temporary differences resulting from matters that have been recognized in an entity's financial statements or tax returns. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the results of operations in the period that includes the enactment date. A valuation allowance is provided to reduce the deferred tax assets reported if, based on the weight of the available positive and negative evidence, it is more likely than not some portion or all of the deferred tax assets will not be realized. A liability (including interest if applicable) is established in the consolidated financial statements to the extent a current benefit has been recognized on a tax return for matters that are considered contingent upon the outcome of an uncertain tax position. Applicable interest is included as a component of income tax expense and income taxes payable.

### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

Not applicable.

### **Item 8. Financial Statements and Supplementary Data**

The Audited Financial Statements of the Company for the Fiscal Years Ended December 31, 2012 and 2011 are included following Item 14 of this Report.

### **Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

**EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES**

As required by Rule 13a-15(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), our management carried out an evaluation, with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) of the Exchange Act), as of the period covered by this report. Disclosure controls and procedures are defined by as controls and other procedures that are designed to ensure that information required to be disclosed by us in reports filed with the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in reports filed under the Exchange Act is accumulated and communicated to our management, including our principal executive and principal financial officers, or person performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Based upon their evaluation, our management (including our Chief Executive Officer and Chief Financial Officer) concluded that our disclosure controls and procedures were not effective as of December 31, 2012 based on the material weaknesses defined below.

**MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a set of processes designed by, or under the supervision of, a company's principal executive and principal financial officers, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and includes those policies and procedures that:



pertain to the maintenance of records that in reasonable detail accurately and fairly reflect our transactions and dispositions of our assets,

provide reasonable assurance our transactions are recorded as necessary to permit preparation of our financial statements in accordance with GAAP, and that receipts and expenditures are being made only in accordance with authorizations of our management and directors, and

provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statement.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. It should be noted that any system of internal control, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system will be met. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Under the supervision and with the participation of management, including its principal executive officer and principal financial officer, the Company's management assessed the design and operating effectiveness of internal control over financial reporting as of December 31, 2012 based on the framework set forth in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Based on this assessment, management concluded that the Company's internal control over financial reporting was not effective as of December 31, 2012.

In connection with the assessment described above, management identified the following control deficiencies that represent material weaknesses at December 31, 2012:

The Company did not have sufficient oversight to ensure financing reporting, proper disclosures around related-party transactions or dissemination of the Company's policies and procedures.

The Company did not maintain effective controls over the period-end financial reporting process, including controls and supporting documentation with respect to journal entries, account reconciliations and proper segregation of duties.

The Company did not implement proper segregation of duties. In certain instances, persons responsible to review transactions for validity, completeness and accuracy were also responsible for preparation.

The Company did not develop and maintain effective general computer controls, including use of a financial application and inventory management system that lack sufficient internal controls, ensuring proper security access within the financial and inventory management applications, ensuring proper change management procedures were followed, and ensuring adequate information technology procedures were followed in accordance with generally accepted best practices.

The Company failed to maintain effective controls within the revenue function, including monitoring major sales contracts to ensure revenue recognition criteria were identified and properly monitored to ensure revenue was recognized, inventory was relieved, and accounts receivable and cost of goods sold were recorded in the correct period.

## **MANAGEMENT'S REMEDIATION PLAN**

Based on the control deficiencies identified above, we have designed and plan to implement, or in some cases have already implemented, the specific remediation initiatives described below:



We are committed to establishing procedures and utilizing experienced individuals with professional supervision to properly segregate duties, prepare and approve the consolidated financial statements and footnote disclosures in accordance with US GAAP.

The Board of Directors is more actively involved in providing additional oversight of the Company's internal controls, formal review of our financial statements, and more detailed review of the draft periodic reports we anticipate filing with the SEC.

We have initiated efforts to ensure our employees understand the importance of internal controls and compliance with corporate policies and procedures. We will implement a reporting and certification process for management involved in the performance of internal controls and preparation of the Company's financial statements.

We will design and implement a formalized financial reporting process that includes balance sheet reconciliations, properly prepared, supported and reviewed journal entries, properly segregated duties, and properly completed and approved close checklist and calendar.

We will initiate a formal feasibility assessment for implementing a system to replace our current financial software application and inventory management system during our current fiscal year. As part of this assessment, we will thoroughly review the roles and responsibilities of our staff involved in the performance of our financial close process and other internal controls to ensure duties are properly segregated, access rights within our new financial software application comply with designated roles and responsibilities and support the proper segregation of duties.

The Company may retain third party specialists to assist us in the design, implementation and testing of our internal controls as necessary.

Changes in Internal Control over Financial Reporting

No changes in the Company's internal control over financial reporting have come to management's attention during the Company's last fiscal quarter that have materially affected, or are likely to materially affect, the Company's internal control over financial reporting.

The Company is a smaller reporting company and, as such no auditor's report on the operating effectiveness of internal controls is included in this Report as the Company is not subject to this reporting requirement.

**Item 9B. Other Information.**

None.



**PART III****Item 10. Directors, Executive Officers and Corporate Governance.****MANAGEMENT**

Set forth below is certain information regarding our executive officers and directors. Each of the directors listed below was elected to our board of directors to serve until our next annual meeting of stockholders or until his (her) successor is elected and qualified. All directors hold office for one-year terms until the election and qualification of their successors. The following table sets forth information regarding the members of our board of directors and our executive officers:

| <b>Name</b>             | <b>Age</b> | <b>Position with the Company</b>   |
|-------------------------|------------|--|
| Laird Q. Cagan          | 54         | Chairman of the Board of Directors   |
| Johnny R. Thomas, Ph.D. | 71         | Chief Executive Officer, Interim Chief Financial Officer, President and a Director |
| John C. Francis         | 63         | Vice President of Corporate Development and Investor Relations                     |

*Laird Q. Cagan*, Director. Mr. Cagan has served as a director of the Company since February 21, 2011. He is an investor in the Company who has served as a director and officer of several publicly traded companies. He has 20 years of experience in investing in and building high growth technology companies as well as 5 years in the investment banking industry. During the 1990 s he invested in and helped build 15 high tech companies with over \$500 million of equity capital invested in those companies. He is a co-founder and Managing Director of Cagan McAfee Capital Partners, LLC ( CMCP ) a private investment firm and merchant bank he founded in 2002. CMCP has founded, funded and taken public 10 companies in a variety of industries including energy, alternative energy, healthcare, information technologies, and environmental. CMCP portfolio companies have raised over \$600 million of equity capital and over \$2 billion of capital has been invested in those companies or their projects. Mr. Cagan previously worked for the two of the largest investment banks in the world, Goldman, Sachs & Co. and Drexel Burnham Lambert. In all, he was involved in over 30 transactions valued at more than \$15 billion, bankruptcy work-out transactions of more than \$2 billion, and a variety of equity, high-yield bond and senior debt financings. Mr. Cagan was the founding Chairman of Evolution Petroleum Corporation (AMEX: EPM), a company he founded to develop mature oil & gas fields with advanced technologies. He is a director and founder of Calpian, Inc. (CLPI.OB) and Career College Holding Co., Chairman and founder of Global Carbon Group, and a former director of AE BioFuels, Inc. (AEBF.PK) and Camac Energy, Inc. (AMEX: CAK). Mr. Cagan is licensed with FINRA under Series 24, 7 and 63, and was a registered representative and Managing Director of Colorado Financial Services Corporation ( CFSC ), a FINRA-licensed broker-dealer from 2008 to 2012 and other firms dating back to 2003. He served an administrative suspension from December 15-29, 2008 for violation of a FINRA rule, failure to provide copies of personal brokerage statements from his prior broker-dealer to his new broker-dealer. CFSC is not affiliated with CMCP. Mr. Cagan attended M.I.T. and received a BS, MS and MBA from Stanford University. He is a graduate of the UCLA Director s Training Program. He is the founding Chairman of the SF Bay chapter of the Young Presidents

Organization. He is a former member of the Stanford University Athletic Board and is a member of the Olympic Club, the oldest athletic club in America.

*Johnny R. Thomas, Chief Executive Officer and President.* Dr. Thomas has been a director of the Company since February 22, 2011. He has been employed by the Company as Chief Executive Officer and President since September 1, 2010. Prior thereto, he served as Chairman of the Board, Chief Executive Officer and President of Consolidation Services, Inc. (OTCBB:CNSV) from that company's inception on January 26, 2007 until April 2, 2010. The company was engaged in the acquisition of land and mineral rights in Eastern Kentucky and is now engaged in oil and gas production. From January 2000 until September 2010, Dr. Thomas was self-employed as an investor in securities, real estate and limited custom home development. From January 2000, Dr. Thomas had been a managing member of Falcon Financial Group, LLC, financial consultants; which has suspended its operations as of December 31, 2008 and is inactive at this time. Prior thereto, he was a founder and served as Chairman of the Board and CEO of AgriBioTech, Inc. from September 1993 until February 1999. AgriBioTech and several of its subsidiaries filed a voluntary petition for bankruptcy in January 2000 (and was subsequently liquidated in Chapter 7), approximately eleven months following Dr. Thomas's departure from the Company. Dr. Thomas received his Ph.D. in genetics/plant breeding from Oregon State University in 1966.



*John C. Francis, Vice President of Corporate Development and Investor Relations.* Mr. Francis has been employed by the Company since September 2010. Prior thereto, he served as Vice President, Chief Financial Officer and a director of Consolidation Services, Inc. from its formation on January 26, 2007, and as Secretary/Treasurer from September 16, 2008 until April 2, 2010. John C. Francis is an entrepreneur, investor and founder, director and executive officer of several publicly traded and privately-held companies in diverse businesses including medical technologies, environmental technologies, agricultural technologies, media, export/import and real estate. Mr. Francis's business experience spans more than thirty-five years. From January 2000 to 2008, Mr. Francis was a co-founder and managing member of Falcon Financial Group, LLC, a privately held company engaged in providing assistance and advice to private companies on capital formation, corporate governance and corporate communications. He has also served as a founder, director, president, chief executive officer of Hunapu, Inc., which was a public blank check development stage company. Mr. Francis also founded and was an officer and director of FiberChem, Inc., a start-up company engaged in the research, development, marketing and distribution of fiber optic chemical sensors for environmental monitoring. He served as Chief Financial Officer (from April 1994 to April 1996), and vice-president, secretary and director (April 1994 through January 1999) of AgriBioTech, Inc. AgriBioTech and several of its subsidiaries filed a voluntary petition for bankruptcy on January 2000 (and was subsequently liquidated in Chapter 7), approximately eleven months following Mr. Francis' departure from the Company.

There are no family relationships among any of our directors and executive officers.

### **Energy Efficiency Advisory Board**

The Company has organized an Energy Efficiency Advisory Board ( EEAB ) with an initial provision for up to ten (10) members. The members of the EEAB are expected to have different energy efficiency backgrounds. These categories include, but are not limited to, HVAC, lighting and refrigeration, international relationships, energy management programs and verification, technologies, political/public regulatory commission experience (both State and Federal), utilities contacts and expertise.

The members of the EEAB will advise and consult with Management, and the Board of Directors, on an informal basis from time to time on business matters in their respective areas of expertise and will be reimbursed for expenses in attending meetings. Each advisor will receive 15,000 non-qualified stock options at the then current fair market value as their compensation and are expected to sign three-year agreements. Members will also be paid consulting fees normally charged by such persons for additional work performed at the Company's request.

Each member of the EEAB is expected to devote only a small portion of his time to the Company's affairs. Members of the EEAB are employed by employers other than the Company (or are retired) and accordingly will have no fiduciary duty to the Company. The Company's need for the expertise of a particular member of the EEAB will depend on the development of the Company's technologies and any acquisitions made. Accordingly, members of the EEAB as such, have no formal duties, authority or management obligations. Each of the members of the EEAB will agree to keep confidential information provided to them.

The following person currently comprises the EEAB:

*Dale Gustavson*, age 65, joined the EEAB on December 14, 2010. Building on a foundation that included having sold hundreds of turnkey energy management projects for an energy management service provider during the 1980s, for the 20 years since, Dale Gustavson has worked as an energy efficiency programs and policy consultant to HVAC contractors, distributors and manufacturers, utilities, and government agencies. An oft-published writer, author and speaker, his clients have included: Air conditioning Contractors of America ( ACCA ), California Public Utilities Commission, Honeywell Incorporated, Los Angeles Department of Water & Power, National Energy Management Institute, New York State Energy Research & Development Agency, and Southern California Edison. Among key volunteer posts he has been serving as: Member of the Technical Advisory Committee to the California Board for Energy Efficiency, Advisory Board of the California Commissioning Collaborative, and National Board Member of the Association of Professional Energy Managers.

*Robert Leebern, Jr.*, age 43 joined the EEAB on December 14, 2010. Mr. Leebern is a principal of Troutman Sanders Strategies. He has more than a decade of public policymaking and political experience, as well as a breadth of federal legislative and regulatory knowledge and expertise. In 2003, Mr. Leebern launched the firm's federal affairs division, building a successful, bipartisan governmental affairs practice. Currently, Mr. Leebern and the federal affairs team serve as Washington representatives to Fortune 500 companies, municipal and county governments, universities, and a number of other business interests. Mr. Leebern has been active on a wide array of issue areas including agribusiness, natural resources, energy, environment, immigration, health, education, technology, transportation and infrastructure. Mr. Leebern has worked with the Executive Branch and various federal agencies advocating policy issues, infrastructure projects and legislative priorities. Familiar with the federal and state legislative and regulatory processes, he has worked on a variety of projects with U.S. Senators, Congressmen, Congressional Committees, Governors' staffs, state regulatory agencies, and members of the state legislature to produce significant results for clients. For 10 years, he served as top political aide and Chief of Staff to former Congressman and current U.S. Senator Saxby Chambliss (R-GA). Leebern has served on the Troutman Sanders Strategies Board of Directors since 2003 and is a Board member of the Troutman Sanders LLP Political Action Committee.

Mr. Gustavson's and Mr. Leebern's contracts with the Company are each for three years and may be terminated with or without cause upon thirty (30) days prior written notice. They each received a 15,000 share ten-year stock option exercisable immediately at \$1.70 per share and will be reimbursed for their expenses.

#### **Director or Officer Involvement in Certain Legal Proceedings**

Our directors and executive officers were not involved in any legal proceedings as described in Item 401(f) of Regulation S-K in the past ten years.

#### **Directors and Officers Liability Insurance**

We have directors and officers liability insurance insuring our directors and officers against liability for acts or omissions in their capacities as directors or officers, subject to certain exclusions. Such insurance also insures us against losses which we may incur in indemnifying our officers and directors. In addition, we have entered into indemnification agreements with key officers and directors and such persons shall also have indemnification rights under applicable laws, and our certificate of incorporation and bylaws.

#### **Board Leadership Structure and Role in Risk Oversight**

Although we have not adopted a formal policy on whether the Chairman and Chief Executive Officer positions should be separate or combined, we have determined that it is in the best interests of the Company and its shareholders to keep these roles separate.

Our Audit Committee is primarily responsible for overseeing our risk management processes on behalf of our board of directors. The Audit Committee receives and reviews periodic reports from management, auditors, legal counsel, and others, as considered appropriate regarding our company's assessment of risks. In addition, the Audit Committee reports regularly to the full Board of Directors, which also considers our risk profile. The Audit Committee and the full Board of Directors focus on the most significant risks facing our company and our company's general risk management strategy, and also ensure that risks undertaken by our Company are consistent with the Board's appetite for risk. While the Board oversees our company's risk management, management is responsible for day-to-day risk management processes. We believe this division of responsibilities is the most effective approach for addressing the risks facing our company and that our Board leadership structure supports this approach.

### **Independent Directors**

We believe Laird Cagan is an independent director, as that term is defined by listing standards of the national exchanges and SEC rules, including the rules relating to the independence standards of an audit committee and the non-employee director definition of Rule 16b-3 of the Exchange Act.

## **Committees of the Board of Directors**

On October 30, 2009, the board of directors adopted charters relative to its audit committee, compensation committee and nominating committee. Until such time as we add more members to the Board, the entire Board will determine all matters and no Committees have been formed. We intend to appoint persons to the board of directors and committees of the board of directors as required to meet the corporate governance requirements of a national securities exchange, although we are not required to comply with these requirements until we elect to seek listing on a national securities exchange. We intend to appoint directors in the future so that we continue to have a majority of our directors who will be independent directors, and of which at least one director will qualify as an audit committee financial expert, within the meaning of Item 407(d)(5) of Regulation S-K of the SEC.

### **Audit Committee**

The audit committee's duties are to recommend to our board of directors the engagement of independent auditors to audit our financial statements and to review our accounting and auditing principles. The audit committee reviews the scope, timing and fees for the annual audit and the results of audit examinations performed by independent public accountants, including their recommendations to improve the system of accounting and internal controls. The audit committee oversees the independent auditors, including their independence and objectivity. However, the committee members are not acting as professional accountants or auditors, and their functions are not intended to duplicate or substitute for the activities of management and the independent auditors. The audit committee is empowered to retain independent legal counsel and other advisors as it deems necessary or appropriate to assist the audit committee in fulfilling its responsibilities, and to approve the fees and other retention terms of the advisors. Our audit committee member possesses an understanding of financial statements and generally accepted accounting principles. The Company does not currently have an audit committee financial expert. The Company and its board of directors have yet to identify a suitable candidate to serve as the audit committee financial expert due to the small size of the Company and its limited reporting history, however, the Company intends to appoint an audit committee financial expert as soon as it is practical.

### **Compensation Committee**

The compensation committee has certain duties and powers as described in its charter, including but not limited to periodically reviewing and approving our salary and benefits policies, compensation of our executive officers, administering our stock option plans, and recommending and approving grants of stock options under those plans.

### **Nominating Committee**

The nominating and corporate governance committee considers and makes recommendations on matters related to the practices, policies and procedures of the board of directors and takes a leadership role in shaping our corporate governance. As part of its duties, the nominating and corporate governance committee assesses the size, structure and composition of the board of directors and its committees, coordinates evaluation of board performance and reviews board compensation. The nominating and corporate governance committee also acts as a screening and nominating committee for candidates considered for election to the board of directors.

### **Compensation Committee Interlocks and Insider Participation**

None of our directors or executive officers serves as a member of the board of directors or compensation committee of any other entity that has one or more of its executive officers serving as a member of our board of directors.

### **Director Compensation/Consulting Agreement**

Upon his joining the Board of Directors, Laird Cagan was granted 100,000 restricted shares of Common Stock with one-half vested immediately and one-half upon the first anniversary date. Mr. Cagan also entered into a two-year consulting agreement under which he was granted warrants to purchase 500,000 shares of Common Stock (of which 62,500 were assigned to his then employer) exercisable at \$1.24 per share (the average Closing market price for the prior ten trading days). The warrants vest 62,500 per quarter for the two-year-period beginning on the effective date of the consulting agreement and are exercisable for ten years, as amended. Mr. Cagan also entered into a services agreement dated November 6, 2012, under which he was granted warrants to purchase 1,000,000 shares of Common Stock exercisable at \$0.01 per share and are exercisable for ten years. Mr. Cagan was also granted ten year warrants exercisable at \$0.01 to purchase 212,500 shares of Common Stock as equity compensation in conjunction with a \$650,000 loan to the Company which has been repaid.

**Item 11. Executive Compensation.****Summary Compensation Table for Discontinued Operations**

The table below sets forth, for the last three fiscal years, the compensation earned by (i) each individual who served as our principal executive officer or principal financial officer, and (ii) our most highly compensated executive officers, other than those listed in clause (i) above, who was serving as executive officers at the end of the last fiscal year (together, the Named Executive Officers ). No other executive officer had annual compensation in excess of \$100,000 during the last fiscal year.

**Name and****Principal**

|                            |             |                    |                   | <b>Option</b>      | <b>All Other</b>         |                   |
|----------------------------|-------------|--------------------|-------------------|--------------------|--------------------------|-------------------|
| <b>Position</b>            | <b>Year</b> | <b>Salary (\$)</b> | <b>Bonus (\$)</b> | <b>Awards (\$)</b> | <b>Compensation (\$)</b> | <b>Total (\$)</b> |
| Dr. Johnny R. Thomas,      | 2012        | \$174,000          | -                 | -                  | -                        | \$174,000         |
|                            | 2011        | 167,792 (1)        |                   |                    |                          | \$167,792         |
| Chief Executive Officer    | 2010        | 33,000 (2)         | -                 | \$198,792          |                          | \$231,792         |
| John C. Francis,           | 2012        | \$150,000          | -                 | -                  |                          | \$150,000         |
| V.P. Corporate Development |             |                    |                   |                    |                          |                   |
| Michael Hodges,            | 2012        | -                  | -                 | -                  | -                        | -                 |
|                            | 2011        | \$-                | -                 | -                  | -                        | -                 |
| Former Chairman of The     | 2010        | \$54,999           | -                 | -                  | -                        | \$54,999          |
| Board of Directors of the  |             |                    |                   |                    |                          |                   |
| Company and Interim        |             |                    |                   |                    |                          |                   |
| Chief Executive Officer    |             |                    |                   |                    |                          |                   |
| (3) (4)                    |             |                    |                   |                    |                          |                   |
| Shelby Little,             | 2012        | -                  | -                 | -                  | -                        | -                 |
|                            | 2011        | -                  | -                 | -                  | -                        | -                 |
| Former Chief Executive     | 2010        | \$37,683           | -                 | -                  | -                        | \$37,683          |
| Officer (6)                |             |                    |                   |                    |                          |                   |
| Carol Shobrook,            | 2012        | -                  | -                 | -                  | -                        | -                 |
|                            | 2011        | -                  | -                 | -                  | -                        | -                 |
| Former Chief Operating     | 2010        | \$13,500           | -                 | -                  | -                        | \$13,500          |

Officer (7)

- (1) Consists of \$ 150,000 cash paid to Dr. Thomas and \$2,000 per month, or an aggregate of \$24,000, withheld in the payment of the excise price of 24,000 warrants.
- (2) On September 1, 2010, Johnny R. Thomas was elected Chief Executive Officer of the Company. Consists of \$25,000 cash paid to Dr. Thomas and \$2,000 per month, or an aggregate of \$8,000, withheld in payment of the exercise price of 8,000 warrants.
- (3) Consists of (i) \$44,500 that was paid to Mr. Hodges for consulting services performed for Genesis Fluid Solutions and (ii) \$22,498 miscellaneous expense reimbursement.
- (4) Mr. Hodges (as well as various other employees) ceased being paid by the Company on May 20, 2010 when the Board began negotiations to spin-off support Genesis Fluid Solutions, Inc. However, he continued to serve as interim Chief Executive Officer of the Company and maintained full operations of the Company until he resigned from all positions with the Company effective as of August 31, 2010.
- (5) Consists of (i) \$70,500 that was paid to Mr. Hodges for consulting services performed for Genesis Fluid Solutions and (ii) \$1,115 in life insurance policy premiums that were paid by the Company on behalf of Mr. Hodges.
- (6) Mr. Little was appointed as the Company's Chief Financial Officer effective December 15, 2009. Effective February 14, 2010, Mr. Little was no longer serving as the Company's Chief Financial Officer and was no longer affiliated with the Company.
- (7) Ms. Shobrook was appointed as the Company's Chief Operating Officer effective November 15, 2009. Effective February 5, 2010, Ms. Shobrook was no longer serving as our Chief Operating Officer and is no longer affiliated with the Company.



*Outstanding Equity Awards at Fiscal Year-End*

Other than as set forth below, there were no outstanding unexercised options, unvested stock, and/or equity incentive plan awards issued to our named executive officers as of December 31, 2012.

| Name             | Option Award   |  | Equity Incentive Plan Awards: |            | Stock Award     |   | Equity Incentive Plan Awards:                                 |  |  |
|------------------|--|--|-------------------------------|------------|-----------------|---|---|--|--|
|                  | Number of Securities Underlying Unexercised Warrants | Number of Securities Underlying Unexercised Warrants | Number of Awards:             | Price (\$) | Expiration Date | Number of Shares or Units of Stock That Have Not Vested | Market Value of Shares or Units of Stock That Have Not Vested | Number of Shares, Units or Other Rights That Have Not Vested | Value of Unearned Shares, Units or Other Rights That Have Not Vested |
| Johnny R. Thomas | 1,000,000  | -0-  | 250,000(1)                    | \$ 1.00    | 09/01/2020      | -0-   | -0-   | -0-  | -0- (2)  |
|                  | 1,000,000(3)   | -0-  | 250,000                       | \$ 0.01    | 03/01/2021      | -0-   | -0-   | -0-  | -0-  |
| John C. Francis  | 1,000,000  | -0-  | 250,000(1)                    | \$ 1.00    | 09/01/2020      | -0-   | -0-   | -0-  | -0- (2)  |
|                  | 1,000,000(3)   | -0-  | 250,000                       | \$ 0.01    | 03/01/2021      | -0-   | -0-   | -0-  | -0-  |

- (1) Shares issuable upon exercise of management warrants assigned by each of Johnny R. Thomas and John C. Francis to affiliates for estate planning purpose and for which warrants and underlying shares Messrs. Thomas and Francis disclaim beneficial ownership, although included in the above table since the warrants were issued pursuant to their respective employment agreements. These Warrants are exercisable for ten (10) years at \$1.00 per share. The first 100,000 warrants vested upon grant, the next 150,000 warrants vested on October 31, 2010, the next 250,000 warrants vested on September 1, 2011, the next 250,000 Warrants vested on September 1, 2012 while the remaining 250,000 warrants vest on September 1, 2013. The vesting schedule accelerates to full vesting upon the Company achieving aggregate revenue of \$12,500,000 for two consecutive quarters and the Company records a pre-tax net profit for such two quarters. These warrants also vest when the holders exercise the warrants and purchase Common Stock. In November 2012 the warrant exercise price was reduced from \$1.25 per share to \$0.01 per share, the term of the warrants was extended to ten years and the vesting criteria was amended to remove milestone criteria. All of the above stated warrants also vest when the holders exercise the warrants and purchase Common Stock and are therefore currently exercisable.
- (2) The Closing Price of the Company's Common Stock on December 31, 2012 was \$1.19 per share.
- (3) Shares issuable upon exercise of 1,000,000 performance warrants assigned by each of Johnny R. Thomas and John C. Francis to effectuate for estate planning purposes and for which warrants and underlying shares Messrs. Thomas and Francis disclaim beneficial ownership, although included in the above table, since the warrants were issued for services rendered. These warrants were granted on March 1, 2011 and are exercisable for ten (10) years at \$0.01 per share, as amended. These Warrant, as amended, vest and become exercisable according to the same terms as set forth for the warrants described in Note (1) above. These warrants also vest when the holders exercise the warrants and purchase Common Stock.

### **Employment Agreements**

There are no material plans, contracts or arrangements pursuant to which Messrs. Thomas or Francis is a party or in which he participates other than those available to all officers and directors of the Company, and as follows:

On August 31, 2010, the Company entered into an "at will" employment agreement, effective as of September 1, 2010, with Dr. Johnny R. Thomas, as Chief Executive Officer and President of the Company. Dr. Thomas' base salary was initially Ninety Nine Thousand Dollars (\$99,000.00) per annum. He is eligible to receive a bonus to be established by the Compensation Committee of the Board of Directors for extraordinary performance. Dr. Thomas was granted warrants to purchase an aggregate of one (1) million shares of Common Stock, exercisable for ten (10) years at \$1.00 per share. The first 100,000 warrants vested upon grant, and the next 150,000 warrants vested on October 31, 2010, while the remaining 750,000 warrants vest in three equal installments on the first, second and third anniversaries of the signing of the employment agreement. The vesting schedule accelerates to full vesting upon the Company achieving aggregate revenue of \$12,500,000 for two consecutive quarters and the Company records a pre-tax net profit for such two quarters. These warrants also vest when Dr. Thomas exercises the warrants and purchases Common Stock. The agreements provides for a non-competition and non-solicitation period of one-year from the termination of employment.

On August 31, 2010, the Company entered into an at will employment agreement, effective as of September 1, 2010, with John C. Francis, as Vice-President, Corporate Development and Investor Relations of the Company. Mr. Francis's base salary was initially Seventy-Five Thousand Dollars (\$75,000.00) per annum. All other terms of employment are the same as set forth in Dr. Thomas' agreement described above.

On March 1, 2011, the Board of Directors of the Company amended the employment agreements of Dr. Johnny R. Thomas and John C. Francis. Each of their employment agreements dated September 1, 2010 were amended effective February 1, 2011, to increase their annual salaries by \$75,000. Johnny R. Thomas' salary increased from \$99,000 to \$174,000 and John Francis' salary from \$75,000 to \$150,000.

Johnny R. Thomas and John C. Francis were each awarded five-year performance warrants to purchase 1,000,000 shares each at an exercise price of \$1.25 per share. The warrants will vest if and when the Company achieves certain revenues, net income and/or EBITDA milestones for four trailing quarters. For each executive officer, a total of 412,500 warrants vest upon four different milestones when annual revenues exceed revenue milestones increasing from \$50 to \$200 million. Achieving net income levels in excess of \$0.20/share to more than \$0.50/share will vest 262,500 warrants upon four different milestones. The remaining 325,000 warrants will vest upon four different milestones when the Company's EBITDA performance exceeds \$0.40/share to more than \$1.00 per share. In November 2012 the warrant exercise price was reduced to \$0.01 per share, the term of the warrants was extended to ten years and the vesting criteria was amended to remove the milestone criteria. All of the above stated warrants also vest when the holders exercise the warrants and purchase Common Stock and are therefore deemed to be currently exercisable.

In the event that an officer is terminated without cause: (i) he shall receive a cash settlement of \$75,000, and (ii) 50% of all unvested warrants issued under his employment agreement, as amended, shall vest immediately. Except as set forth herein, the respective employment agreements remain unchanged and in full force and effect.

The Company entered into employment agreements as of September 1, 2011, as amended on March 15, 2012, with D. Jason Davis, as Chief Executive Officer of Xnergy, Inc. and Joseph Patalano, as Chief Operating Officer of Xnergy, Inc. The agreements terminate on August 31, 2016, unless terminated earlier and are automatically renewed for one-year periods unless notice of termination is given by either party at least 90 days prior to expiration of the Initial Term and/or any renewal period. Mr. Davis's base salary is \$300,000 per annum and Mr. Patalano's base salary is \$140,000. Both are eligible to receive a bonus for the three fiscal years ending December 31, 2013, based on Xnergy's performance on a stand-alone basis. Pursuant to the March 2012 Amendment, the cash bonus for 2012 was replaced by a warrant bonus. Messrs. Davis and Patalano received 716,400 and 183,600 warrants, respectively, exercisable at \$1.16 per share, the merger closing price for ten (10) days prior to execution of the Amendment. The warrants expire on March 15, 2017, if not previously exercised. The warrants shall vest as follows:

a)

150,000 and 100,000 warrants for Davis and Patalano, respectively, when the Company signs an agreement or agreements that generate at least \$30,000,000 in revenues, or when the executive pays the \$1.16 to exercise said warrants, whichever occurs first.

b)

283,200 and 41,800 warrants for Davis and Patalano, respectively, shall vest when the Company recognizes \$50,000 in accumulated revenues according to GAAP standards, commencing January 1, 2012.

c)

283,200 and 41,800 warrants for Davis and Patalano, respectively, shall vest when the Company recognizes \$70,000 in accumulated revenues according to GAAP standards, commencing January 1, 2012.

The bonuses for 2013 shall be paid based on 80% of the reasonable forecasted profits of Xnergy before negotiations commenced with the Company. Messrs. Davis and Patalano shall receive 33% in the aggregate of the recurring revenue from payments completed during the initial term of their employment contracts, provided: (i) Xnergy's net income for the fiscal year exceeds the profit threshold; (ii) the respective employee is still employed by Xnergy; and (iii) this provision shall expire on June 30, 2016, unless extended in writing. If the Agreement is terminated for Cause (as defined) or the employee leaves without Good Reason (as defined) he shall only receive any accrued compensation but not be entitled to any bonus beyond the date of termination. If the employee's contract is terminated other than for Cause or by the Employee for Good Reason, but not for death, disability or non-resident, the employee shall receive the compensation stated above for the balance of the Term and any bonus generated from recurring profits from payments originated by the Employee until revenue under such agreements cease.

## **Equity Compensation Plan Information**

### ***Equity Incentive Plan***

On October 30, 2009, our board of directors and stockholders adopted the 2009 Equity Incentive Plan. The purpose of the 2009 Equity Incentive Plan is to provide an incentive to attract and retain directors, officers, consultants, advisors and employees whose services are considered valuable, to encourage a sense of proprietorship, and to stimulate an active interest of these persons in our development and financial success. Under the 2009 Equity Incentive Plan, we are authorized to issue up to 4,542,000 shares of Common Stock, including incentive stock options intended to qualify under Section 422 of the Internal Revenue Code of 1986, as amended, non-qualified stock options, stock appreciation rights, performance shares, restricted stock and long term incentive awards. The 2009 Equity Incentive Plan will be administered by our board of directors until authority has been delegated to a committee of the board of directors. On the closing date of the 2009 Merger, certain of our executive officers, directors and other persons were granted options to purchase common stock exercisable at prices ranging from \$0.90 to \$1.00 per share. All but the options granted to Dan Lohrmeyer (200,000 shares exercisable at \$0.90 per share which were subsequently exercised) and Brittany Jorgenson (20,000 shares exercisable at \$0.90 per share until October 30, 2019) were cancelled pursuant to the terms of the August 2010 Stock Purchase Agreement (see Certain Relationships and Related Transactions - Discontinued Operations). An aggregate of 3,002,000 options exercisable at \$.90 to \$1.00 per share were cancelled in connection the August 2010 Stock Purchase Agreement by the following persons: Colleen Stiles (770,000 shares), Michael Hodges (600,000 shares), Larry Campbell (600,000 shares), Paul Vette (500,000 shares), Carol Shobrook (400,000 shares), Amanda Sorenson (100,000 shares), Michael Whaley (30,000 shares) and Tim Holt (2,000 shares). Options to purchase 38,500 shares of Common Stock were granted to Keven Kraus in October 2009 exercisable at \$0.99 per share until March 31, 2011 which have been exercised and 10,000 shares of Common Stock to Keith Spondike in October 2010 exercisable at \$1.00 per share which are the sole options from the above described paragraph remaining outstanding as of the date of this Report.

On December 14, 2010, the Company granted Dale Gustavson and Robert Leebern each options to purchase 15,000 shares of Common Stock, exercisable for ten (10) years at \$1.70 per share upon their joining the EEAB.

Effective January 1, 2011, upon the Castrovilla Acquisition, 23 employees of Castrovilla were granted an aggregate of 54,459 incentive stock options with one and three year vesting schedules exercisable for ten (10) years at \$1.68 per share. John Pink, President of Castrovilla, was granted a performance based incentive stock option to purchase 30,000 shares of Common Stock, exercisable for ten years at \$1.68 per share. As long as he is employed by Castrovilla, Mr. Pink's option remains exercisable in three equal installments of 10,000 shares each on December 31, 2011, 2012 and 2013, only if Castrovilla operations as currently situated achieve EBITDA levels of \$870,000, \$1,044,000 and \$1,252,000, respectively. Mr. Pink was also granted an option to purchase 13,332 shares of Common Stock exercisable for ten years at \$1.68 per share exercisable in three equal installments of 4,444 shares on December 31, 2011, 2012 and 2013, respectively.

Effective September 1, 2011, upon the Xnergy and HVAC Controls & Specialties, Inc. Acquisition, 27 employees of Xnergy, Inc. and 11 employees of HVAC Controls & Specialties, Inc. were granted an aggregate of 135,250 incentive stock options with one and three year vesting schedules exercisable for ten (10) years at \$1.72 per share.

On October 4, 2011, the Company granted John Pink options to purchase 450,000 shares of Common Stock exercisable at \$1.72 per share for ten (10) years with one-third vested upon grant, one-third upon billing of 500 petroleum sites and one-third vested upon billing of an additional 1,000 petroleum sites.

On January 1, 2012, the Company granted Philip Kranenburg options to purchase 1,000,000 shares of Common Stock as described above. As a result of the termination of Mr. Kranenburg's employment, he is currently able to exercise an aggregate of 52,740 options and the remaining 947,260 will be returned to Treasury.

On October 16, 2012, the Company granted Edith Vasquez, a Company employee, options to purchase 10,000 shares of Common Stock exercisable at \$1.23 per share for ten (10) years with one third-vested at grant and one-third vested annually thereafter.

On December 5, 2012, the Company granted three Xnergy, Inc. employees and one HVAC Controls & Specialties, Inc. employee an aggregate of 175,000 ten (10) year options to purchase Common Stock at \$1.27 per share with one-half of the options vesting on December 1, 2013 and the other one-half vesting on December 14, 2014.

As a result of the foregoing, there were options to purchase an aggregate of 960,761 shares of Common Stock issued and outstanding as of December 31, 2012.

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

The following table sets forth certain information as of March 26, 2013 regarding the beneficial ownership of our common stock, by (i) each person or entity who, to our knowledge, owns more than 5% of our common stock; (ii) our executive officers named in the Summary Compensation Table above; (iii) each director; and, (iv) all of our executive officers and directors as a group. Unless otherwise indicated in the footnotes to the following table, each person named in the table has sole voting and investment power and that person's address is c/o Blue Earth, Inc., 2298 Horizon Ridge Parkway, Suite 205, Henderson, NV 89052 Shares of common stock subject to options, warrants, or other rights currently exercisable or exercisable within 60 days of the date of this prospectus, are deemed to be beneficially owned and outstanding for computing the share ownership and percentage of the stockholder holding the options, warrants or other rights, but are not deemed outstanding for computing the percentage of any other stockholder.

|                          | Number of Shares   | Percentage            |
|--------------------------|--------------------|-----------------------|
| Name of Beneficial Owner | Beneficially Owned | Beneficially Owned(1) |
| 5% Owners:               |                    |                       |
| John Liviakis            | 1,891,752(2)       | 8.6%                  |

Liviakis Financial Communications

655 Redwood Hwy, Suite 395

Mill Valley, CA 94941

D. Jason Davis

2721 Loker Avenue West

Carlsbad, CA 92010

3,519,662(3)

15.7 %

David Lies

1701 E. Lake Avenue, Suite 260

Glenview, IL 60025

4,205,470(4)

16.4%

Executive Officers and Directors :

Johnny R. Thomas

1,697,838(5)

7.2 %

John C. Francis

1,672,838(5)

7.1 %

Laird Q. Cagan

1,699,125(6)

7.4%

All executive officers and directors

as a group (three persons)

5,069,801(5)(6)

19.4%

(1) Based on 21,816,868 shares of our common stock outstanding on March 28, 2013. Does not include shares of our common stock issuable upon exercise of outstanding options, warrants and warrants issuable upon grant and full exercise of Class A Warrants or conversion of Preferred Stock.



(2) As reported on Schedule 13G/A dated August 1, 2013 filed by John Liviakis. Includes 1,690,172 shares of common stock beneficially owned as of August 1, 2012 and 201,580 Shares issuable upon conversion of Series B Preferred Stock. Does not include an aggregate of 1,382,391 shares of Common Stock comprised of (a) 757,391 issuable upon the exercise of Class A Warrants issued to Mr. Liviakis, (b) 100,710 shares issuable upon exercise of Class A Warrants held by Liviakis Financial Communications ( LVC ), of which Mr. Liviakis is the controlling person of, (c) 600,000 shares of Common Stock issuable upon the exercise of the Warrants, exercisable at \$.01 per share, issued to LVC, or (d) 25,000 shares of Common Stock issuable upon the exercise of the PIPE Warrants issued in the 2009 Private Placement. Mr. Liviakis, LVC and the Company amended the applicable Warrants effective August 2, 2012, to provide that no exercise shall occur if as a result Mr. Liviakis would have beneficially owned more than 9.99% of the issued and outstanding common stock of the Company.

(3) Consists of 2,873,292 shares of Common Stock held by a trust of which Mr. Davis is the executor and beneficiary, 1,000 shares held directly by Mr. Davis and 646,400 shares of Common Stock issuable upon exercise of currently exercisable warrants held by Mr. Davis. Includes 398,000 shares deposited by Mr. Davis and 102,000 shares deposited by Joseph Patalano, an officer of Xnergy, with the Company pursuant to an Escrow Agreement dated as of September 7, 2011, none of which shares are saleable prior to September 7, 2013 under the terms of a lock-up agreement. The Company shall be entitled to reimbursement from the Escrowed Shares in the event CJ3, as owner of the leased building, defaults on mortgage payments that adversely affect the Company financially through its lease.

(4) Includes 100,000 shares issued in our 2009 Private Placement and 195,310 shares issued for consulting services to Remanco Inc. of which Mr. Lies is a control person; 50,000 shares issuable upon exercise of Pipe Warrants issued in the 2009 Private Placement; 50,000 shares issuable upon exercise of Class A Warrants issued to all shareholders of record on December 31, 2010; 1,260,720 shares issuable upon exercise of Class A Warrants issued in our 2011 Series A Preferred Stock Offering and 2012 Series B Preferred Stock Offering; 1,610,000 shares of Common Stock issuable upon issuance of Series A Convertible Preferred Stock; and 911,440 shares of Common Stock issuable upon conversion of Series B Convertible Preferred Stock, but does not include accrued preferred stock dividends.

(5) Shares issuable upon exercise of management warrants assigned by Johnny R. Thomas and John C. Francis to affiliates for estate planning purpose and for which warrants and underlying shares Messrs. Thomas and Francis disclaim beneficial ownership (except for 1,160,000 underlying shares owned by John Francis and 750,000 underlying shares owned by Johnny R. Thomas), although included in the above table since the warrants were issued pursuant to their respective employment agreements, as amended. Under Dr. Thomas's employment agreement 2,000 shares per month are being exercised and issued in lieu of salary payments for such exercises. Of three Warrants the initial 1,000,000 Warrants issued to each of Dr. Thomas and Mr. Francis are exercisable for ten (10) years at \$1.00 per share. The first 100,000 warrants vested upon grant, the next 150,000 warrants vested on October 31, 2010, the next 250,000 warrants vested on September 1, 2011, the next 500,000 warrants vested on September 1, 2012, while the remaining 500,000 warrants vest on September 1, 2013. The vesting schedule accelerates to full vesting upon the Company achieving aggregate revenue of \$12,500,000 for two consecutive quarters and the Company records a pre-tax net profit for such two quarters. The second warrants issued in March 2011, for each to purchase 1,000,000 shares were exercisable at \$1.25 per share and were reduced to \$0.01 per share and will vest according to the above stated vesting schedule for the earlier granted warrants under the employment agreements and the term of all warrants was extended to ten years. All of these warrants also vest when the holders exercise the warrants and purchase Common Stock and are therefore deemed to be currently exercisable. See Item 11. Executive Compensation above.

(6) Includes (a) 600,000 shares beneficially owned by Cagan Capital LLC, a company that Mr. Cagan is the principal of; (b) 100,000 shares beneficially owned by Mr. Cagan's minor children; (c) 250,000 warrants issued to Mr. Cagan exercisable at \$2.00 per share; (d) 50,000 warrants issued to Mr. Cagan's minor children exercisable at \$2.00 per share; (e) 250,000 warrants issued to Mr. Cagan or an affiliate thereof at \$3.00 per share; (f) 11,625 warrants issued to Mr. Cagan or an affiliate thereof at \$1.25; and (g) 437,500 warrants issued to Mr. Cagan that are exercisable at \$1.24 per share. Does not include 1,000,000 warrants issued under a consulting agreement in November 2012. Does not include 212,500 warrants issued as compensation for a \$650,000 loan to the Company.

### **Securities Authorized for Issuance Under Equity Compensation Plans**

As of December 31, 2012, securities issued and securities available for future issuance under our Equity Incentive Plan were as follows:

**Equity Compensation Plan Information**

|   | Number of securities to<br>be<br>issued upon exercise of<br>outstanding options,<br>warrants<br>and rights | Weighted-<br>average exercise<br>price of outstanding<br>options, warrants and<br>rights | Number of<br>securities<br>remaining<br>available for<br>future<br>issuance<br>under equity<br>compensation<br>plans |
|---|--|--|--|
| Equity compensation plans approved by security holders (1)    | 960,761  | \$1.58   | 3,581,239  |
| Equity compensation plans not approved by security holders(2) | <u>8,493,500</u>   | <u>\$ 0.50</u>   | <u>-0-</u>   |
| Total   | <u>9,454,261</u>   | <u>\$ 0.61</u>   | <u>3,581,239</u>   |

(1)

See Executive Compensation - Equity Incentive Plan for a discussion of the Company's 2009 Equity Incentive Plan.

(2)

See Executive Compensation - Outstanding Equity Amounts at Fiscal Year End note (1) for a discussion of Management Warrants issued to Johnny R. Thomas and John C. Francis designated nominees and Warrants issued to Laird Cagan, Chairman of the Board.

From September 29, 2011 through December 31, 2011, the Company completed the sale of \$2,000,000 of Units of unregistered securities. Each Unit consists of: (i) one share of Series A Convertible Preferred Stock ( Preferred Stock ), offered at \$10.00 per share convertible into ten shares of Common Stock at \$1.00 per share, and (ii) warrants ( Warrants ) to purchase one share of Common Stock for each two shares of Common Stock issuable upon conversion of the Preferred Stock.

The terms and conditions of the Preferred Stock are set forth in the Certificate of Designation of the Rights, Preferences, Privileges and Restrictions of Series A Convertible Preferred Stock as set forth in the Certificate, the Preferred Stock:

pays an eight percent (8%) dividend when paid in cash or a twelve percent (12%) dividend when paid in common stock at the Company's election;

shall be convertible at the Company's election at \$1.00 per share upon the earlier of (i) four (4) years from issuance or (ii) when the Common Stock closing price trades at \$2.25 per share for sixty (60) consecutive calendar days;

In the event of such a mandatory conversion by the Company, prior to the payment of the first year of dividends, the Company shall nevertheless pay the Holder such dividends equal to what the Holder was to receive for the first full year from the date of issuance;

liquidation preference of \$10.00 per share plus additional unpaid dividends;

votes on an as converted basis with Common Stock as one class; and

will register underlying common stock on next available registration statement;

The terms of the Warrants are set forth in the form of warrant, filed as an exhibit with the SEC. As set forth in the warrant, the Warrant:

A Warrant: Each A warrant entitles the holder to receive one common share and a B warrant when the A warrant is exercised. The exercise price is \$3.00/share and the expiration date is December 31, 2013.

B Warrant: Each B warrant entitles the holder to receive one common share and a C Warrant when the B warrant is exercised. The exercise price is \$6.00/share and the expiration date three (3) years from the issuance date.

C Warrant: Each C warrant entitles the owner to receive one common share when the C warrant is exercised. The exercise price is \$12.00/share and the expiration date is three (3) years from the issuance date.

Accordingly, the Company issued 297,850 shares of Series A Preferred Stock, with a face value of \$10.00 per share and Warrants to purchase 1,489,250 shares of Common Stock at \$3.00 per share.

The Company issued 283,052 shares of Series B Preferred Stock, with a face value of \$10.00 per share and warrants to purchase 1,415,260 shares of Common Stock at \$3.00 per share.

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

Except as set forth below, during the past three years, there have been no transactions, whether directly or indirectly, between the Company and any of its officers, directors or their family members.

**Employment Agreements/Warrants**

The Company has entered into substantively similar employment agreements effective September 1, 2010, as amended on March 1, 2011, with Dr. Johnny R. Thomas as Chief Executive Officer and President and John Francis as Vice President of Corporate Development and Investor Relations. Pursuant to their contracts, Messrs. Thomas and Francis were each awarded warrants to purchase an aggregate of 2,000,000 shares of Common Stock, as set forth above under Executive Compensation - Employment Agreements. 747,162 of the warrants awarded to purchase an aggregate of 2,000,000 shares of Common Stock have been exercised.

**Consulting Agreement/Warrants**

On February 24, 2011, the Company entered into a Consulting Agreement with Cagan McAfee Capital Partners, an entity controlled by Laird Cagan, Chairman of the Company's Board of Directors. Mr. Cagan received warrants to purchase 500,000 shares of Common Stock at \$1.24 per share, for a ten-year period, as amended. On November 6, 2012 the Company entered into a services agreement with Laird Cagan, Chairman of the Company's Board of Directors in which he received warrants to purchase 1,000,000 shares of Common Stock at \$0.01 per share, for a ten-year period. Mr. Cagan also received on December 12, 2012 212,500 warrants to purchase Common Stock at \$0.01 per share, for a ten-year period. These warrants were issued in consideration of a \$650,000 secured loan made by Mr. Cagan to the Company.

**Item 14. Principal Accountant Fees and Services.**

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The Company's Audit Committee reviews and approves audit and permissible non-audit services performed by its independent registered public accounting firm, as well as the fees charged for such services.

HJ & Associates LLC was appointed as the independent registered public accounting firm for the fiscal year ended December 31, 2012. Subsequently, HJ & Associates LLC was appointed as the independent registered public accounting firm for the fiscal year ended December 31, 2011 also.

Lake and Associates, CPA, was appointed as the independent registered public accounting firm for the fiscal year ended December 31, 2011.

In its review of non-audit services and its appointment of the independent registered public accounting firms, the Audit Committee considered whether the provision of such services is compatible with maintaining independence. All of the services provided and fees charged by the independent registered public accounting firms were approved by the Audit Committee.

The following table shows the fees for the fiscal years ended December 31, 2012 and 2011.

|                       | <b>Fiscal 2012</b>                      | <b>First Three<br/>Quarters of<br/>Fiscal 2012</b> | <b>Fiscal 2011</b>                       | <b>Fiscal 2010</b>                   |
|-----------------------|---|--|--|--------------------------------------|
|                       | <b>HJ &amp;<br/>Associates,<br/>LLC</b> | <b>Lake and<br/>Associates,<br/>CPAs</b>           | <b>Lake and<br/>Associates,<br/>CPAs</b> | <b>Lake and<br/>Associates, CPAs</b> |
| Audit Fees (1)        | \$ 55,000                               | \$ 59,210  | \$ 59,500                                | \$ 10,000                            |
| Audit Related Fees(2) | \$ 0                                    | \$ 12,775  | \$ 0                                     | \$ 0                                 |
| Tax Fees              | \$ 0                                    | \$ 0   | \$ 0                                     | \$ 0                                 |
| All Other Fees (3)    | \$ 0                                    | \$ 0   | \$ 66,960                                | \$ 0                                 |
| Total                 | \$ 0                                    | \$ 71,985  | \$ 126,460                               | \$ 10,000                            |

- (1) Audit fees - these fees relate to the audit of our annual financial statements and the review of our interim quarterly financial statements.
- (2) Audit related fees - these fees relate primarily to the auditors' review of our registration statements and audit related consulting.
- (3) All Other Fees -these fees relate to the reaudit of our prior period financial statements and the audit of the companies acquired during 2011.

**Policy on Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services of Independent Auditors**

The Audit Committee's policy is to pre-approve all audit and permissible non-audit services provided by the independent auditors. These services may include audit services, audit-related services, tax services and other services. Pre-approval is generally provided for up to one year and any pre-approval is detailed as to the particular service or category of services and is generally subject to a specific budget. The independent auditors and management are required to periodically report to our Board of Directors regarding the extent of services provided by the independent auditors in accordance with this pre-approval, and the fees for the services performed to date. The Board of Directors may also pre-approve particular services on a case-by-case basis.







**Report of Independent Registered Public Accounting Firm**

To the Board of Directors

Blue Earth, Inc. and Subsidiaries

Henderson, Nevada

We have audited the accompanying consolidated balance sheets of Blue Earth, Inc. and Subsidiaries as of December 31, 2012 and 2011, and the related consolidated statements of operations, stockholders' equity, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Blue Earth, Inc. and Subsidiaries as of December 31, 2012 and 2011 and the results of their operations and their cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

/s/ HJ & Associates, LLC

HJ & Associates, LLC

Salt Lake City, Utah

September 11, 2013

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**BLUE EARTH, INC. AND SUBSIDIARIES**  
Consolidated Balance Sheets

ASSETS

|  | December 31,<br>2012 | December 31,<br>2011 |
|--|----------------------|----------------------|
| <b>CURRENT ASSETS</b>                    |                      |                      |
| Cash                                     | \$ 659,009           | \$ 527,108           |
| Accounts receivable, net                 | 1,749,827            | 911,429              |
| Costs and revenues in excess of billings | 1,724,543            | 34,386               |
| Inventory, net                           | 221,548              | 473,451              |
| Construction in progress                 | 706,043              | -                    |
| Prepaid expenses and deposits            | 921,917              | 540,251              |
| Total Current Assets                     | 5,982,887            | 2,486,625            |
| PROPERTY AND EQUIPMENT, net              | 661,156              | 850,751              |
| <b>OTHER ASSETS</b>                      |                      |                      |
| Deposits                                 | 52,408               | 42,106               |
| Contracts and franchise, net             | 8,250,495            | 10,846,590           |
| Total Other Assets                       | 8,302,903            | 10,888,696           |
| <b>TOTAL ASSETS</b>                      | <b>\$ 14,946,946</b> | <b>\$ 14,226,072</b> |

LIABILITIES AND STOCKHOLDERS' EQUITY

|   |              |              |
|---|--------------|--------------|
| <b>CURRENT LIABILITIES</b>  |              |              |
| Accounts payable  | \$ 2,088,459 | \$ 1,191,497 |
| Current portion of notes payable  | 503,386      | 533,701      |
| Related party payables  | 1,976,995    | 378,609      |
| Billings in excess of revenues  | 674,971      | 645,424      |
| Deferred revenues   | 17,004       | 26,069       |
| Accrued expenses  | 423,256      | 620,106      |
| Payroll expenses payable  | 534,846      | 515,310      |
| Preferred dividends payable   | 440,287      | 54,155       |
| Warrant derivative liability  | -            | 2,037,325    |
| Total Current Liabilities   | 6,659,204    | 6,002,196    |
| <b>LONG TERM LIABILITIES</b>  |              |              |
| Long term portion of notes payable  | -            | 979,338      |
| Total Liabilities   | 6,659,204    | 6,981,534    |
| Commitments and contingencies   |              |              |
| <b>STOCKHOLDERS' EQUITY</b>   |              |              |
| Preferred stock; 25,000,000 shares authorized<br>at \$0.001 par value, 510,152 and 200,000<br>shares issued and outstanding, respectively     | 510          | 200          |
| Common stock; 100,000,000 shares authorized<br>at \$0.001 par value, 20,882,549 and 18,703,182<br>shares issued and outstanding, respectively | 20,883       | 18,703       |

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|  |               |               |
|--|---------------|---------------|
| Additional paid-in capital                 | 42,332,298    | 33,771,622    |
| Stock subscription receivable              | -             | (2,632,192)   |
| Accumulated deficit                        | (34,065,949)  | (23,913,795)  |
| Total Stockholders' Equity                 | 8,287,742     | 7,244,538     |
| TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY | \$ 14,946,946 | \$ 14,226,072 |

The accompanying notes are an integral part of these consolidated financial statements.

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**BLUE EARTH, INC. AND SUBSIDIARIES**

## Consolidated Statements of Operations

|   | For the Year Ended<br>December 31, |                 |
|---|------------------------------------|-----------------|
|   | 2012                               | 2011            |
| REVENUES  | \$ 9,966,073                       | \$ 5,315,664    |
| COST OF SALES   | 6,383,645                          | 2,838,277       |
| GROSS PROFIT  | 3,582,428                          | 2,477,387       |
| OPERATING EXPENSES  |                                    |                 |
| Depreciation and amortization   | 2,541,961                          | 1,209,769       |
| General and administrative  | 12,311,157                         | 14,434,071      |
| Total Operating Expenses  | 14,853,118                         | 15,643,840      |
| LOSS FROM OPERATIONS  | (11,270,690)                       | (13,166,453)    |
| OTHER INCOME (EXPENSE)  |                                    |                 |
| Gain (loss) on derivative valuation   | 2,037,325                          | (749,166)       |
| Other income  | 1                                  | 957             |
| Interest expense  | (185,970)                          | (49,324)        |
| Loss on settlement of license   | (164,667)                          | -               |
| Loss on settlement of debt  | (23,133)                           | -               |
| Liquidated damages expense  | -                                  | (55,000)        |
| TOTAL OTHER INCOME (EXPENSE)  | 1,663,556                          | (852,533)       |
| LOSS BEFORE INCOME TAXES  | (9,607,134)                        | (14,018,986)    |
| INCOME TAX EXPENSE  | -                                  | -               |
| NET LOSS  | (9,607,134)                        | (14,018,986)    |
| PREFERRED DIVIDENDS   | (545,020)                          | (89,357)        |
| NET LOSS ATTRIBUTABLE TO COMMON<br>SHAREHOLDERS                                 | \$ (10,152,154)                    | \$ (14,108,343) |
| BASIC AND DILUTED LOSS PER SHARE  | \$ (0.51)                          | \$ (0.93)       |
| WEIGHTED AVERAGE NUMBER OF<br>COMMON<br>SHARES OUTSTANDING BASIC AND<br>DILUTED | 18,961,099                         | 15,109,401      |

The accompanying notes are an integral part of these consolidated financial statements.

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**BLUE EARTH, INC. AND SUBSIDIARIES**

## Consolidated Statements of Stockholders' Equity

|  | Preferred Stock<br>Shares | Preferred Stock<br>Amount | Common Stock<br>Shares | Common Stock<br>Amount | Additional<br>Paid-In<br>Capital | Stock<br>Subscription<br>Receivable | Accumulated<br>Deficit | Total<br>Stockholders'<br>Equity |
|--|---------------------------|---------------------------|------------------------|------------------------|----------------------------------|-------------------------------------|------------------------|----------------------------------|
| Balance,<br>December 31,<br>2010                             | -                         | \$ -                      | 11,855,232             | \$ 11,855              | \$ 12,420,166                    | \$ -                                | \$ (9,805,452)         | \$ 2,626,569                     |
| Common stock<br>issued for options<br>cancellation           | -                         | -                         | 72,813                 | 73                     | 95,712                           | -                                   | -                      | 95,785                           |
| Common stock<br>issued for license                           | -                         | -                         | 150,000                | 150                    | 176,850                          | -                                   | -                      | 177,000                          |
| Common stock<br>issued for<br>acquisition of<br>subsidiaries | -                         | -                         | 5,779,762              | 5,780                  | 10,164,229                       | (2,632,192)                         | -                      | 7,537,817                        |
| Common stock<br>issued for<br>consulting services            | -                         | -                         | 743,903                | 744                    | 972,406                          | -                                   | -                      | 973,150                          |
| Common stock<br>issued for<br>employee<br>incentives         | -                         | -                         | 66,667                 | 66                     | 114,601                          | -                                   | -                      | 114,667                          |
| Common stock<br>issued for exercise<br>of options            | -                         | -                         | 34,805                 | 35                     | 17,965                           | -                                   | -                      | 18,000                           |
| Stock option and<br>warrant expense                          | -                         | -                         | -                      | -                      | 7,809,893                        | -                                   | -                      | 7,809,893                        |
| Preferred shares<br>and warrants<br>issued for cash          | 200,000                   | 200                       | -                      | -                      | 1,999,800                        | -                                   | -                      | 2,000,000                        |
| Net loss<br>attributable to<br>common<br>shareholders for    |                           |                           |                        |                        |                                  |                                     |                        |                                  |

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|   |          |      |            |        |             |             |              |              |
|---|----------|------|------------|--------|-------------|-------------|--------------|--------------|
| the year ended<br>December 31,<br>2011  | -        | -    | -          | -      | -           | -           | (14,108,343) | (14,108,343) |
| Balance,<br>December 31,<br>2011  | 200,000  | 200  | 18,703,182 | 18,703 | 33,771,622  | (2,632,192) | (23,913,795) | 7,244,538    |
| Common stock<br>issued upon<br>conversion of debt   | -        | -    | 1,220,501  | 1,221  | 1,463,092   | -           | -            | 1,464,313    |
| Common stock<br>issued upon<br>conversion<br>of preferred stock<br>and accrued<br>dividends | (70,750) | (71) | 790,417    | 790    | 105,448     | -           | -            | 106,167      |
| Common stock<br>issued for<br>acquisition of<br>project rights                              | -        | -    | 366,529    | 366    | 486,284     | -           | -            | 486,650      |
| Common stock<br>issued for<br>consulting services   | -        | -    | 370,741    | 371    | 497,058     | -           | -            | 497,429      |
| Common stock<br>cancelled for<br>technology   | -        | -    | (75,000)   | (75)   | (89,175)    | -           | -            | (89,250)     |
| Common stock<br>cancelled for<br>exercise of options  | -        | -    | (84,180)   | (84)   | 84          | -           | -            | -            |
| Common stock<br>cancelled for stock<br>subscription<br>receivable                           | -        | -    | (877,364)  | (877)  | (2,631,315) | 2,632,192   | -            | -            |
| Common stock<br>issued upon<br>exercise of<br>warrants and<br>options                       | -        | -    | 467,723    | 468    | 128,143     | -           | -            | 128,611      |
| Preferred shares<br>and warrants<br>issued for cash and<br>services                         | 380,902  | 381  | -          | -      | 3,598,007   | -           | -            | 3,598,388    |

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|   |         |        |            |          |               |    |               |              |
|---|---------|--------|------------|----------|---------------|----|---------------|--------------|
| Stock option and<br>warrant expense   | -       | -      | -          | -        | 4,892,060     | -  | -             | 4,892,060    |
| Derivative<br>attached to<br>preferred stock  | -       | -      | -          | -        | 110,990       | -  | -             | 110,990      |
| Net loss<br>attributable to<br>common<br>shareholders for<br>the year ended<br>December 31,<br>2012 | -       | -      | -          | -        | -             | -  | (10,152,154)  | (10,152,154) |
| Balance,<br>December 31,<br>2012  | 510,152 | \$ 510 | 20,882,549 | \$20,883 | \$ 42,332,298 | \$ | -(34,065,949) | \$ 8,287,742 |

The accompanying notes are an integral part of these consolidated financial statements.

**BLUE EARTH, INC. AND SUBSIDIARIES**  
Consolidated Statements of Cash Flows

|  | For the Year Ended<br>December 31, |                    |
|--|------------------------------------|--------------------|
|  | 2012                               | 2011               |
| <b>OPERATING ACTIVITIES</b>  |                                    |                    |
| Net loss   | \$ (9,607,134)                     | \$ (14,018,986)    |
| Adjustments to reconcile net loss to net cash<br>used in operating activities: |                                    |                    |
| Stock options and stock warrants issued for services                           | 4,307,594                          | 7,809,893          |
| (Gain) loss on derivative valuation  | (2,037,325)                        | 749,166            |
| Derivative attached to preferred stock   | 110,990                            | -                  |
| Loss on settlement of debt   | 23,133                             | -                  |
| Loss on settlement of license  | 164,667                            | -                  |
| Stock issued for services  | 497,429                            | 863,052            |
| Depreciation and amortization  | 2,541,961                          | 1,209,769          |
| Amortization of debt discount  | 37,306                             | -                  |
| Changes in operating assets and liabilities:                                   |                                    |                    |
| Accounts receivable and billings in excess                                     | (2,528,555)                        | 32,800             |
| Inventory  | 251,903                            | (347,174)          |
| Construction in progress   | (401,886)                          | -                  |
| Prepaid expenses and deposits  | 303,819                            | (17,439)           |
| Accrued dividends payable  | (240,921)                          | (35,202)           |
| Accounts payable and accrued expenses  | 1,048,163                          | (403,769)          |
| Net Cash Used in Operating Activities  | (5,528,856)                        | (4,157,890)        |
| <b>INVESTING ACTIVITIES</b>  |                                    |                    |
| Acquisition of subsidiaries  | -                                  | (1,185,392)        |
| Purchase of license  | -                                  | (100,000)          |
| Purchase of property and equipment   | (10,188)                           | (117,789)          |
| Net Cash Used in Investing Activities  | (10,188)                           | (1,403,181)        |
| <b>FINANCING ACTIVITIES</b>  |                                    |                    |
| Proceeds from warrants exercised   | 91,950                             | -                  |
| Proceeds from related party loans  | 1,605,000                          | 16,336             |
| Proceeds from preferred stock  | 3,598,388                          | 2,000,000          |
| Acquisition of subsidiary  | -                                  | 1,800,978          |
| Proceeds from notes payable  | 1,208,008                          | -                  |
| Repayment of notes payable   | (825,787)                          | (1,629,231)        |
| Repayment of related party loans   | (6,614)                            | -                  |
| Net Cash Provided by Financing Activities                                      | 5,670,945                          | 2,188,083          |
| <b>NET INCREASE (DECREASE) IN CASH</b>   | <b>131,901</b>                     | <b>(3,372,988)</b> |

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|                           |            |            |
|---------------------------|------------|------------|
| CASH AT BEGINNING OF YEAR | 527,108    | 3,900,096  |
| CASH AT END OF YEAR       | \$ 659,009 | \$ 527,108 |

The accompanying notes are an integral part of these consolidated financial statements.

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**BLUE EARTH, INC. AND SUBSIDIARIES**  
Consolidated Statements of Cash Flows (Continued)

|  | For the Year Ended<br>December 31, |            |
|--|------------------------------------|------------|
|  | 2012                               | 2011       |
| <b>SUPPLEMENTAL DISCLOSURES OF<br/>CASH FLOW INFORMATION</b> |                                    |            |
| <b>CASH PAID FOR:</b>  |                                    |            |
| Interest   | \$ 83,625                          | \$ 49,324  |
| Income taxes   | -                                  | -          |
| <b>NON CASH FINANCING ACTIVITIES:</b>                        |                                    |            |
| Common stock issued upon conversion of debt                  | \$ 1,441,180                       | \$ -       |
| Commons stock issued upon conversion of preferred stock      | 708                                | -          |
| Common stock cancelled for technology                        | (253,917)                          | -          |
| Common stock issued for acquisition of subsidiary            | -                                  | 10,170,009 |
| Common stock issued for license                              | -                                  | 177,000    |
| Common stock cancelled for subscription                      | (2,632,192)                        | -          |
| Common stock cancelled                                       | (84)                               | -          |
| Cashless exercise of warrants                                | 147                                | -          |
| Initial debt discounts on notes payable                      | 71,172                             | -          |
| Interest reclassification to notes payable                   | 7,853                              | -          |
| Preferred dividends declared                                 | 545,020                            | 89,357     |
| Warrant vesting recognized as a prepaid expense              | 513,294                            | -          |
| Warrants exercised for accrued wages                         | 36,660                             | -          |
| Shares issued for construction in progress costs             | 486,650                            | -          |

The accompanying notes are an integral part of these consolidated financial statements.

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**BLUE EARTH, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**DECEMBER 31, 2012 AND 2011**

**Note 1. Description of Business**

Blue Earth, Inc. and subsidiaries (the Company), a Nevada corporation headquartered in Henderson, Nevada, is a provider of energy efficiency and renewable energy solutions for facilities primarily located in west coast states. The Company is a full service energy solutions provider. The Company provides energy efficiency services including energy management, energy audits and reducing energy consumption through retrofits of lighting, refrigeration and HVAC for small commercial business. The Company also develops, designs, builds and implements technologies such as solar, fuel cells and combined heat and power for alternative and renewable energy projects of less than 1 MW. The Company also finances renewable and alternative energy projects through industry relationships.

**Note 2. Significant Accounting Policies**

**Use of Estimates**

The Company's consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States (GAAP). These accounting principles require management to make certain estimates, judgments and assumptions. Management believes that the estimates, judgments and assumptions upon which they rely are reasonable based upon information available to us at the time that these estimates, judgments and assumptions are made. These estimates, judgments and assumptions can affect the reported amounts of assets and liabilities as of the date of the consolidated financial statements as well as the reported amounts of revenues and expenses during the periods presented. The consolidated financial statements would be affected to the extent there are material differences between these estimates and actual results. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP and does not require management's judgment in its application. There are also areas in which management's judgment in selecting any available alternative would not produce a materially different result. Significant estimates include the estimates of depreciable lives and valuation of property and equipment, valuation and amortization periods of intangible assets, valuation of derivatives, valuation of payroll tax contingencies, valuation of share-based payments, and the valuation allowance on deferred tax assets.

**Principles of Consolidation**

The consolidated financial statements for 2012 reflect the financial position and operations of the Company and its wholly-owned subsidiaries, Blue Earth Tech, Inc., (BET) Castrovilla, Inc., (Castrovilla), Blue Earth Energy Management, Inc. (BEEM), HVAC Controls and Specialties, Inc. (HVAC), Ecolegacy Gas & Power, LLC (Eco), Xnergy, Inc. (Xnergy), Blue Earth Energy Management Services, Inc. (BEEMS) and Blue Earth Finance, Inc. (BEF). For the year ended December 31, 2011, the consolidated financial statements included the accounts of Blue Earth



Tech, Inc, Castrovilla, Inc., and Blue Earth Energy Management, Inc. The 2011 consolidated financial statements also include the accounts of HVAC Controls and Specialties, Inc., Ecolegacy, LLC and Xnergy, Inc. from September 1, 2011.

### **Cash and Cash Equivalents**

The Company considers all short-term highly liquid investments with an original maturity at the date of purchase of three months or less to be cash equivalents. There were no cash equivalents at December 31, 2012 and 2011.

### **Accounts Receivable**

The Company records accounts receivable related to its construction contracts based on billings or on amounts due under the contractual terms. Accounts receivable throughout the year may decrease based on payments received, credits for change orders, or back charges incurred.

Management reviews accounts receivable periodically to determine if any receivables will potentially be uncollectible. Management's evaluation includes several factors including the aging of the accounts receivable balances, a review of significant past due accounts, economic conditions, and our historical write-off experience, net of recoveries. The Company includes any accounts receivable balances that are determined to be uncollectible, along with a general reserve, in its allowance for doubtful accounts. After all attempts to collect a receivable have failed, the receivable is written off against the allowance. The Company's allowance for doubtful accounts was \$58,233 and \$193,218 as of December 31, 2012 and 2011, respectively.



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 2. Significant Accounting Policies (Continued)**

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation is provided for on a straight-line basis over the estimated useful lives of the assets per the following table. Expenditures for additions and improvements are capitalized while repairs and maintenance are expensed as incurred.

| <u>Category</u>               | <u>Depreciation Term</u> |
|-------------------------------|--------------------------|
| Leasehold improvements        | 39 years                 |
| Computer and office equipment | 3-5 years                |
| Equipment and tools           | 5-10 years               |
| Vehicles                      | 5 years                  |

**Intangible Assets**

The Company records the purchase of intangible assets not purchased in a business combination in accordance with the ASC Topic 350 and records intangible assets acquired in a business combination in accordance with ASC Topic 805. In connection with the purchases of Castrovilla, and Xnergy. The Company has recorded \$11,595,475 as the value of customer contracts and franchises. In 2011 the Company paid \$277,000 for a license to energy conservation technology. The license was cancelled in 2012. These amounts are being amortized over their estimated useful lives of 5 years. The Company recorded amortization expense of \$2,342,178 and \$1,100,798 during the years ended December 31, 2012 and 2011, respectively. Annual amortization expense will be \$2,319,075 through 2016.

**Long-Lived Assets**

Management evaluates the recoverability of the Company's identifiable intangible assets and other long-lived assets in accordance with ASC Topic 360, which generally requires the assessment of these assets for recoverability when events or circumstances indicate a potential impairment exists. Events and circumstances considered by the Company in determining whether the carrying value of identifiable intangible assets and other long-lived assets may not be recoverable include, but are not limited to: significant changes in performance relative to expected operating results, significant changes in the use of the assets, significant negative industry or economic trends, a significant decline in the Company's stock price for a sustained period of time, and changes in the Company's business strategy. In determining if impairment exists, the Company estimates the undiscounted cash flows to be generated from the use

and ultimate disposition of these assets. If impairment is indicated based on a comparison of the assets' carrying values and the undiscounted cash flows, the impairment loss is measured as the amount by which the carrying amount of the assets exceeds the fair market value of the assets.

### **Fair Value Measurements**

On January 1, 2008, the Company adopted the provisions of ASC Topic 820 Fair Value Measurements and Disclosures. ASC Topic 820 defines fair value as used in numerous accounting pronouncements, establishes a framework for measuring fair value and expands disclosure of fair value measurements. Excluded from the scope of ASC Topic 820 are certain leasing transactions accounted for under ASC Topic 840, Leases. The exclusion does not apply to fair value measurements of assets and liabilities recorded as a result of a lease transaction, but measured pursuant to other pronouncements within the scope of ASC Topic 820.

### **Advertising**

The Company conducts advertising for the promotion of its services. In accordance with ASC Topic 720-35-25, advertising costs are charged to operations when incurred. Advertising costs aggregated \$107,215 and \$300,927 for the years ended December 31, 2012 and 2011, respectively.

### **Reclassifications**

Certain amounts in the accompanying 2011 consolidated financial statements have been reclassified to conform to the 2012 presentation.

### **Reserve for Warranty**

The Company has accrued a reserve for the estimated cost of completing warranted services. The reserve is \$1,717 and

\$25,241 as of December 31, 2012 and 2011, respectively.



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 2. Significant Accounting Policies (Continued)**

**Revenue Recognition**

The Company generates revenues from professional services contracts. Customers are billed, according to individual agreements. Revenues from professional services are recognized on a completed-contract basis, in accordance with ASC Topic 605-35, Construction-Type and Production-Type Contracts. Under the completed-contract basis, contract costs are recorded to a deferred asset account and billings and/or cash received are recorded to a deferred revenue liability account during the periods of construction. Costs include direct material, direct labor and subcontract labor. All revenues, costs, and profits are recognized in operations upon completion of the contract. A contract is considered complete when all costs except insignificant items have been incurred and final acceptance has been received from the customer. Corporate general and administrative expenses are charged to the periods as incurred. However, in the event a loss on a contract is foreseen, the Company will recognize the loss as incurred.

For uncompleted contracts, the deferred asset (accumulated contract costs) in excess of the deferred liability (billings and/or cash received) is classified under current assets as Costs in excess of billings on uncompleted contracts. The deferred liability (billings and/or cash received) in excess of the deferred asset (accumulated contract costs) is classified under current liabilities as Billings in excess of costs on uncompleted contracts. Contract retentions are included in accounts receivable.

**Income Taxes**

The Company uses the asset and liability method of accounting for income taxes in accordance with ASC Topic 740, Income Taxes. Under this method, income tax expense is recognized for the amount of: (i) taxes payable or refundable for the current year, and (ii) deferred tax consequences of temporary differences resulting from matters that have been recognized in an entity's financial statements or tax returns. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the results of operations in the period that includes the enactment date. A valuation allowance is provided to reduce the deferred tax assets reported if, based on the weight of the available positive and negative evidence, it is more likely than not some portion or all of the deferred tax assets will not be realized. A liability (including interest if applicable) is established in the consolidated financial statements to the extent a current benefit has been recognized on a tax return for matters that are considered contingent upon the outcome of an uncertain tax position. Applicable interest is included as a component of income tax expense and income taxes payable.

ASC Topic 740-10-30 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. ASC Topic 740-10-40 provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The Company believes its tax positions are all highly certain of being upheld upon examination. As such, the Company has not recorded a liability for unrecognized tax benefits. As of December 31, 2012, the tax years 2009 through 2011 remain open for IRS audit. The Company has received no notice of audit from the Internal Revenue Service for any of the open tax years.

The Company adopted the provisions of ASC Topic 740-10-25-09, which provides guidance on how an entity should determine whether a tax position is effectively settled for the purpose of recognizing previously unrecognized tax benefits. The term "effectively settled" replaces the term "ultimately settled" when used to describe recognition, and the terms "settlement" or "settled" replace the terms "ultimate settlement" or "ultimately settled" when used to describe measurement of a tax position under ASC Topic 740. Topic 740-10-25-09 clarifies that a tax position can be effectively settled upon the completion of an examination by a taxing authority without being legally extinguished. For tax positions considered effectively settled, an entity would recognize the full amount of tax benefit, even if the tax position is not considered more likely than not to be sustained based solely on the basis of its technical merits and the statute of limitations remains open.

### **Basic and Diluted Loss Per Share**

Basic net loss per share is computed by dividing the net loss by the weighted average number of shares of common stock outstanding during the periods presented. Diluted net loss per common share is computed using the weighted average number of common shares outstanding for the period, and, if dilutive, potential common shares outstanding during the period. Potential common shares consist of the incremental common shares issuable upon the exercise of stock options, stock warrants, convertible preferred stock or other common stock equivalents. Options to purchase 960,761 and 607,791 common shares and warrants to purchase 19,807,876 and 16,020,366 common shares were outstanding at December 31, 2012 and 2011, but were not included in the computation of diluted loss per share because the effects would have been anti-dilutive. These options and warrants may dilute future earnings per share.

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 2. Significant Accounting Policies (Continued)**

**Stock-Based Compensation**

The Company recognizes compensation expense for stock-based compensation in accordance with ASC Topic No. 718. For employee stock-based awards, the Company calculates the fair value of the award on the date of grant using the Black-Scholes method for stock options; the expense is recognized over the service period for awards expected to vest. For non-employee stock-based awards, the Company calculates the fair value of the award on the date of grant in the same manner as employee awards, however, the awards are revalued at the end of each reporting period and the pro rata compensation expense is adjusted accordingly until such time the nonemployee award is fully vested, at which time the total compensation recognized to date shall equal the fair value of the stock-based award as calculated on the measurement date, which is the date at which the award recipient's performance is complete.

The estimation of stock-based awards that will ultimately vest requires judgment, and to the extent actual results or updated estimates differ from original estimates, such amounts are recorded as a cumulative adjustment in the period estimates are revised. The Company considers many factors when estimating expected forfeitures, including types of awards, employee class, and historical experience.

**Comprehensive Income**

The Company has no items of other comprehensive income as of December 31, 2012 and 2011.

**Accounting for Derivatives**

The Company evaluates its options, warrants or other contracts to determine if those contracts or embedded components of those contracts qualify as derivatives to be separately accounted for under ASC Topic 815, *Derivatives and Hedging*. The result of this accounting treatment is that the fair value of the derivative is marked-to-market each balance sheet date and recorded as a liability. In the event that the fair value is recorded as a liability, the change in fair value is recorded in the statement of operations as other income (expense). Upon conversion or exercise of a derivative instrument, the instrument is marked to fair value at the conversion date and then that fair value is reclassified to equity. Equity instruments that are initially classified as equity that become subject to reclassification under ASC Topic 815 are reclassified to liability at the fair value of the instrument on the reclassification date.



## Research and Development

In accordance with ASC Topic 730, Research and Development, expenditures for research and development of the Company's products and services are expensed when incurred, and are included in operating expenses. The Company recognized research and development costs of \$582 and \$14,230 for the years ended December 31, 2012 and 2011, respectively.

## Recent Accounting Pronouncements

The Company has evaluated recent accounting pronouncements and their adoption has not had or is not expected to have a material impact on the Company's financial position or its financial statements.

## Inventory

Inventory is recorded at the lower of cost or market (net realizable value) using the average cost method. The inventory on hand as of December 31, 2012 and 2011 consists of motors, controllers, miscellaneous refrigeration parts and raw gasket material at costs of \$221,548 (net of \$-0- allowance) and \$473,451 (net of \$25,000 allowance), respectively. The Company does not have any work in progress.

## Prepaid Expenses and Deposits

The components of the Company's prepaid expenses as of December 31, are as follows:

|  | 2012       |    | 2011    |
|--|------------|----|---------|
| Consulting fees (term 1-9 months)        | \$ 696,868 | \$ | 440,038 |
| Royalties ( term as earned per contract) | -          |    | 68,213  |
| Insurance (term 11 months)               | 42,555     |    | 29,000  |
| Deposits (term 1 month)                  | 182,494    |    | 3,000   |
| Total prepaid expenses                   | \$ 921,917 | \$ | 540,251 |

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 2. Significant Accounting Policies (Continued)****Technology License**

On May 16, 2011, the Company purchased a license to energy conservation technology known as SwitchGenie . The purchase price was \$100,000 and 150,000 shares of the Company s common stock valued at \$1.18 per share, which was the market price on the transaction closing date. The license also requires the Company to pay a royalty based upon SwitchGenie sales. The Company had prepaid \$68,213 in royalties against the license as of December 31, 2011 which was included in prepaid expenses. The Company was amortizing the cost of the license over the expected life of 5 years and has recorded \$13,850 and \$-0- of amortization expense during the year ended December 31, 2012 and 2011, respectively. During the year ended December 31, 2012 the Company returned the technology license to the licensor in exchange for 75,000 shares of common stock and terminated the exclusive license and entered into a non exclusive license and supply agreement.

**Note 3 - Property and Equipment**

The major classes of assets as of December 31, are as follows:

|  | 2012        | 2011       |
|--|-------------|------------|
| Office and computer equipment            | \$ 342,405  | \$ 352,227 |
| Manufacturing and installation equipment | 272,488     | 260,624    |
| Leasehold improvements                   | 759,304     | 759,304    |
| Vehicles                                 | 404,720     | 422,803    |
| Sub Total                                | 1,778,917   | 1,794,958  |
| Accumulated Depreciation                 | (1,117,762) | (944,207)  |
| Net                                      | \$ 661,156  | \$ 850,751 |

Depreciation expense was \$213,633 and \$108,971, for the years ended December 31, 2012 and 2011, respectively. Approximately \$360,210 of the Company s property and equipment serves as security against its long-term debt.

**Note 4. Fair Value of Financial Instruments**

The Company follows the provisions of ASC 820 for fair value measurements of all nonfinancial assets and nonfinancial liabilities not recognized or disclosed at fair value in the financial statements on a recurring basis. The accounting standard for fair value measurements provides a framework for measuring fair value and requires expanded disclosures regarding fair value measurements. Fair value is defined as the price that would be received for an asset or the exit price that would be paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants on the measurement date. The accounting standard established a fair value hierarchy which requires an entity to maximize the use of observable inputs, where available. This hierarchy prioritizes the inputs into three broad levels as follows. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities. Level 2 inputs are quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument. Level 3 inputs are unobservable inputs based on the Company's own assumptions used to measure assets and liabilities at fair value. An asset or liability's classification within the hierarchy is determined based on the lowest level input that is significant to the fair value measurement.

Liabilities measured at fair value on a recurring and non-recurring basis consisted of the following at December 31, 2012 and 2011:

|                              | Total Carrying<br>Value at<br>December 31,<br>2012 | Fair Value Measurements at December 31, 2012 |           |              |
|------------------------------|--|--|-----------|--------------|
|                              |  | (Level<br>1)                                 | (Level 2) | (Level 3)    |
| Liabilities:                 |  |  |           |              |
| Warrant derivative liability | \$ -   | \$ -   | \$ -      | \$ -         |
|                              |  |  |           |              |
|                              | Total Carrying<br>Value at<br>December 31,<br>2011 | Fair Value Measurements at December 31, 2011 |           |              |
|                              |  | (Level<br>1)                                 | (Level 2) | (Level 3)    |
| Liabilities:                 |  |  |           |              |
| Warrant derivative liability | \$ 2,037,325                                       | \$ -   | \$ -      | \$ 2,037,325 |

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 4. Fair Value of Financial Instruments (Continued)**

The following is a summary of activity of Level 3 liabilities for the years ended December 31, 2012 and 2011:

|                              |    |             |
|------------------------------|----|-------------|
| Balance at December 31, 2010 | \$ | 1,288,159   |
| Change in fair value 2011    |    | 749,166     |
| Balance at December 31, 2011 |    | 2,037,325   |
| Change in fair value 2012    |    | (2,037,325) |
| Balance at December 31, 2012 | \$ | -           |

The Company estimates the fair value of the warrant derivative liability utilizing the Black-Scholes option pricing model, which is dependent upon several variables such as the expected warrant term, expected volatility of our stock price over the expected warrant term, expected risk-free interest rate over the expected warrant term, and the expected dividend yield rate over the expected warrant term. The Company believes this valuation methodology is appropriate for estimating the fair value of the warrant derivative liability. The following table summarizes the assumptions the Company utilized to estimate the fair value of the warrant derivative liability at December 31, 2012 and 2011:

| <u>Assumptions</u>      | December 31, 2012 | December 31, 2011 |
|-------------------------|-------------------|-------------------|
| Expected term (years)   | 0.0               | 0.8 -1.0          |
| Expected volatility     | 178%              | 159%              |
| Risk-free interest rate | 3.64%             | 3.64%             |
| Dividend yield          | 0.00%             | 0.00%             |

The expected warrant term is based on the remaining contractual term. The expected volatility is based on historical volatility. The risk-free interest rate is based on the U.S. Treasury yields with terms equivalent to the expected term of the related warrant at the valuation date. Dividend yield is based on historical trends. While the Company believes these estimates are reasonable, the fair value would increase if a higher expected volatility was used, or if the expected dividend yield increased.

There were no changes in the valuation techniques during the years ended December 31, 2012 and December 31, 2011. The estimated fair value of certain financial instruments, including cash and cash equivalents and current

liabilities, are carried at historical cost basis, which approximates their fair values because of the short-term nature of these instruments.

#### **Note 5. Commitments and Contingencies**

On March 1, 2011, the Board of Directors of the Company amended the employment agreements of Dr. Johnny R. Thomas and John C. Francis. Each of their employment agreements dated September 1, 2010 were amended effective February 1, 2011, to increase their annual salaries by \$75,000. Johnny R. Thomas's salary increased from \$99,000 to \$174,000 and John Francis's salary from \$75,000 to \$150,000.

Johnny R. Thomas and John C. Francis were each awarded five-year performance warrants to purchase 1,000,000 shares each at an exercise price of \$1.25 per share. The warrants will vest if and when the Company achieves certain revenues, net income and/or EBITDA milestones for four trailing quarters. For each executive officer, a total of 412,500 warrants vest upon four different milestones when annual revenues exceed revenue milestones increasing from \$50 to \$200 million. Achieving net income levels in excess of \$0.20/share to more than \$0.50/share will vest 262,500 warrants upon four different milestones. The remaining 325,000 warrants will vest upon four different milestones when the Company's EBITDA performance exceeds \$0.40/share to more than \$1.00 per share. Mr. Thomas and Mr. Francis also have the right to vest the warrants by exercising the warrants. Accordingly the value of the warrants has been expensed in the financial statements. In November 2012 the warrant exercise price was reduced to \$0.01 per share, the term of warrants were extended to 10 years and the vesting criteria was amended to remove the milestone criteria and to effectively vest immediately.

Any warrants not vested for one milestone period are added on a cumulative basis to the following increment for potential vesting at the next milestone. In the event that an officer is terminated without cause: (i) he shall receive a cash settlement of \$75,000, and (ii) 50% of all unvested warrants issued under his employment agreement, as amended, shall vest immediately. Except as set forth herein, the respective employment agreements remain unchanged and in full force and effect.

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 5. Commitments and Contingencies (Continued)**

**Legal Matters**

The Company is subject to litigation of normal course of business. The Company records a liability for legal settlements when the amount is estimable and determined to be likely.

**Operating Leases**

The Company leases office and manufacturing facilities from unrelated parties under non cancellable operating leases. The leases are typically five years. As of December 31, 2012, future minimum lease payments are as follows:

| Year       | Amount       |
|------------|--------------|
| 2013       | \$ 364,800   |
| 2014       | 296,910      |
| 2015       | 253,020      |
| 2016       | 241,020      |
| 2017       | 241,020      |
| Thereafter | 3,374,280    |
| Total      | \$ 4,771,050 |

**Note 6. Stockholders Equity**

**Preferred Stock**

The Company is authorized to issue up to 25,000,000 shares of preferred stock having a par value of \$0.001 per share.

During 2012 the Company issued 283,052 shares of its Series B preferred stock at \$10 per share for proceeds of \$2,830,520. Each share of Series B preferred stock is convertible to 10 shares of the Company's common stock. The Series B preferred stock also provides for an 8% dividend if paid in cash or a 12% dividend if paid in shares of common stock. The Holder of the Series B preferred stock received common stock purchase warrants to purchase one share for every two shares of common stock issuable upon conversion of Series B Preferred Stock.

During 2011 the Company issued 200,000 shares of its Series A preferred stock at \$10 per share for proceeds of \$2,000,000. During the year ended December 31, 2012 the Company issued an additional 97,850 shares of Series A preferred stock for proceeds of \$978,500. Each share of Series A preferred stock is convertible to 10 shares of common stock upon the Company's common stock trading at \$2.25 per share for 60 consecutive days. The Series A preferred stock also provides for an 8% dividend if paid in cash or a 12% dividend if paid in shares of common stock. The Holder of the Series A preferred stock received common stock purchase warrants to purchase one share for every two shares of common stock issuable upon conversion of Series A Preferred Stock.

During the year ended December 31, 2012, 70,750 shares of the Series B preferred stock with the related accrued dividends were converted to 790,417 shares of common stock. The Company has accrued a preferred dividend payable of \$440,287 on the preferred stock as of December 31, 2012.

The Warrants attached to the Class A and B preferred stock are substantially the same. Upon the exercise of a Class A Warrant for the \$3.00 Exercise Price, the Holder shall receive one share of Common Stock and a Class B Common Stock Purchase Warrant ( Class B Warrant ) to purchase one share of Common Stock at \$6.00 per share, subject to redemption and/or temporary reduction by the Company. The Class B Warrant shall be exercisable into shares of Common Stock at any time, or from time-to-time, up to and including 5:00 p.m. (Pacific Coast Time) on the third anniversary date from the date of the last issuance of the Class B Warrants, unless previously called or extended by the Company on thirty (30) days prior written notice; provided, however, if such date is not a Business Day, then on the Business Day immediately following such date. The Company determined the value of the Class A Warrants to be \$1,087,881 using the Black-Scholes model. The Company allocated \$497,792 of the \$2,000,000 proceeds received from the Preferred Stock to the Class A Warrant and is amortizing the remaining \$497,792 as a dividend expense over the 4 year term of the Warrants. The Company recognized \$35,202 of additional dividend expense due to the Class A Warrants during the year ended December 31, 2011.

**BLUE EARTH, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**DECEMBER 31, 2012 AND 2011**

**Note 6. Stockholders Equity (Continued)**

Upon the exercise of the Class B Warrant for the \$6.00 Exercise Price, the Holder shall receive one share of Common Stock and a Class C Common Stock Purchase Warrant ( Class C Warrant ) to purchase one share of Common Stock at \$12.00 per share, subject to redemption and/or temporary reduction by the Company. The Class C Warrant shall be exercisable into shares of Common Stock at any time, or from time-to-time, up to and including 5:00 p.m. (Pacific Coast Time) on the third anniversary date from the date of the last issuance of the Class C Warrants, unless previously called or extended by the Company on thirty (30) days prior written notice; provided, however, if such date is not a Business Day, then on the Business Day immediately following such date. The Company will determine the value of the Class B Warrant when the Class A Warrants are exercised and the value of the Class C Warrant when the Class B Warrants are exercised.

**Common Stock**

The Company is authorized to issue up to 100,000,000 shares of common stock having a par value of \$0.001 per share, of which 20,882,549 and 18,703,182 shares were issued and outstanding at December 31, 2012 and 2011, respectively.

During the year ended December 31, 2012 the Company issued 1,220,501 shares of its common stock upon the conversion of \$1,464,313 of debt. The Company issued 790,417 shares of its common stock upon the conversion of 70,750 shares of preferred stock and accrued dividends of \$111,924. The Company issued 366,529 shares of common stock for certain solar project rights valued at \$486,650 and cancelled 75,000 shares of common stock for the termination of rights to technology valued at \$253,917. The Company issued 370,741 shares for consulting services valued at \$497,429 and 467,723 shares upon the exercise of warrants and options valued at \$128,611. The Company cancelled 84,180 common shares as consideration for the exercise of warrants and 877,364 common shares in exchange for a stock subscription receivable.

During the year ended December 31, 2011 the Company issued 5,779,762 shares of its common stock to acquire subsidiaries valued at \$10,170,009. The Company issued 150,000 shares of common stock for technology license rights valued at \$177,000. The Company issued 743,903 shares for consulting services valued at \$973,150, 66,667 shares as employee incentives valued at \$114,667 and 34,805 shares upon the exercise of options valued at \$18,000. The Company cancelled 72,813 common shares as consideration for the cancellation of options valued at \$95,785.



## **Incentive Stock Option and Warrant Grants to Consultants and Employees**

### **2009 Incentive Stock Option Plan**

During the year ended December 31, 2012 the Company granted 372,970 stock purchase options to its employees under its 2009 Incentive Stock Option Plan. The options have a 10 year option period (1 year upon termination of employment) and are exercisable at \$1.23 to \$1.72 per share.

During the year ended December 31, 2011 the Company granted 547,791 stock purchase options to its employees under its 2009 Incentive Stock Option Plan. The options have a 10 year option period and are exercisable at \$1.00 to \$1.72 per share.

As of December 31, 2012, 3,590,128 shares were remaining under the 2009 Plan for future issuance.

### **Stock Purchase Warrants**

During the year ended December 31, 2012 the Company granted 2,112,500 stock purchase warrants to a director (1,212,500) and executive employees (900,000). The warrants have a 5 to 10 year exercise period and are exercisable at \$0.01 to \$1.16 per share. The Company also granted 4,035,000 stock purchase warrants to consultants. The warrants have a 1 to 10 year exercise period and are exercisable at \$0.01 to \$1.39 per share. The Company also granted 146,750 stock purchase warrants to the placement agents on its Class B preferred stock. The warrants have a 5 year exercise period and are exercisable at \$1.75 per share. The Company also reset the exercise price for 3,597,500 options from \$1.00 to \$1.24 per share to \$0.01 per share. The Company also issued 1,415,260 A warrants to the purchasers of the Class B preferred stock with an exercise period of 1 year and an exercise price \$3.00.

During the year ended December 31, 2011 the Company granted 2,500,000 stock purchase warrants to executive employees. The warrants have a 5 to 10 year exercise period and are exercisable at \$1.00 to \$1.24 per share. The Company also granted 160,000 stock purchase warrants to consultants. The warrants have a 5 year exercise period and are exercisable at \$1.15 per share. The Company also granted 69,000 stock purchase warrants to the placement agents on its Class A preferred stock. The warrants have a 5 year exercise period and are exercisable at \$1.75 per share. The Company also issued 1,489,250 A warrants to the purchasers of the Class A preferred stock with an exercise period of 1 year and an exercise price of \$3.00 per share.



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 6. Stockholders Equity (Continued)**

The Company recorded compensation expense of \$4,307,594 and \$7,809,893 for the years ended December 31, 2012 and 2011, respectively, in connection with these stock warrants and options.

The Company estimates the fair value of share-based compensation utilizing the Black-Scholes option pricing model, which is dependent upon several variables such as the expected option term, expected volatility of our stock price over the expected option term, expected risk-free interest rate over the expected option term, expected dividend yield rate over the expected option term, and an estimate of expected forfeiture rates. The Company believes this valuation methodology is appropriate for estimating the fair value of stock options granted to employees and directors which are subject to ASC Topic 718 requirements. These amounts are estimates and thus may not be reflective of actual future results, nor amounts ultimately realized by recipients of these grants. The Company recognizes compensation on a straight-line basis over the requisite service period for each award. The following table summarizes the assumptions the Company utilized to record compensation expense for stock options granted during the years ended December 31, 2012 and 2011:

|                             | December 31,<br>2012 | December 31,<br>2011 |
|-----------------------------|----------------------|----------------------|
| Expected term (years)       | 5.0 - 10.0           | 5.0 - 10.0           |
| Expected volatility         | 94.45-116.86%        | 160%                 |
| Weighted-average volatility | 94.45-116.86%        | 160%                 |
| Risk-free interest rate     | 0.23-1.53%           | 3.99%                |
| Dividend yield              | 0%                   | 0%                   |
| Expected forfeiture rate    | 0%                   | 0%                   |

The expected life is computed using the simplified method, which is the average of the vesting term and the contractual term. The expected volatility is based on historical volatility. The risk-free interest rate is based on the U.S. Treasury yields with terms equivalent to the expected term of the related option at the time of the grant. Dividend yield is based on historical trends. While the Company believes these estimates are reasonable, the compensation expense recorded would increase if the expected life was increased, a higher expected volatility was used, or if the expected dividend yield increased. A summary of the Company's stock option activity during the years ended December 31, 2012 and 2011 is presented below:

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|  | No. of<br>Options | Weighted<br>Average<br>Exercise<br>Price | Weighted<br>Average<br>Remaining<br>Contractual<br>Term | Aggregate<br>Intrinsic<br>Value |
|--|-------------------|--|---|---------------------------------|
| Balance Outstanding, December 31, 2010 | 298,500           | \$ 1.00                                  | 9.8   |                                 |
| Granted                                | 97,791            | 1.68                                     | 5.0   |                                 |
| Granted                                | 450,000           | 1.72                                     | 10  |                                 |
| Forfeited                              | (238,500)         | 0.94                                     | 9   |                                 |
| Balance Outstanding, December 31, 2011 | 607,791           | 1.63                                     | 9.8   | 1,018,089                       |
| Granted                                | 52,720            | 1.37                                     | 110   |                                 |
| Granted                                | 10,000            | 1.23                                     | 10  |                                 |
| Granted                                | 175,000           | 1.27                                     | 10  |                                 |
| Granted                                | 135,250           | 1.72                                     | 10  |                                 |
| Exercised                              | (20,000)          | 0.90                                     | 9.8   |                                 |
| Balance Outstanding, December 31, 2012 | 960,761           | \$ 1.58                                  | 8.2   | \$ 1,520,695                    |
| Exercisable, December 31, 2012         | <u>654,095</u>    | \$ <u>1.52</u>                           | <u>8.2</u>  | \$ <u>996,496</u>               |

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**BLUE EARTH, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****DECEMBER 31, 2012 AND 2011****Note 6. Stockholders Equity (Continued)**

A summary of the Company's warrant activity during the years ended December 31, 2012 and December 31, 2011 is presented below:

|  | No. of<br>Warrants | Weighted<br>Average<br>Exercise<br>Price | Weighted<br>Average<br>Remaining<br>Contractual<br>Term | Aggregate<br>Intrinsic<br>Value |
|--|--------------------|--|---|---------------------------------|
| Balance Outstanding, December 31, 2010 | 11,870,116         | \$ 2.31                                  |   | \$ 27,457,223                   |
| Granted                                | 2,660,000          | 1.05                                     | 5.00  |                                 |
| Forfeited                              | (18,000)           | 1.00                                     | --  |                                 |
| Granted                                | 1,489,250          | 3.00                                     | 1.00  |                                 |
| Forfeited                              | (50,000)           | 1.25                                     | --  |                                 |
| Granted                                | 69,000             | 1.75                                     | 5.00  |                                 |
| Balance Outstanding, December 31, 2011 | 16,020,366         | 2.53                                     | 2.78  | 33,801,473                      |
| Granted                                | 900,000            | 1.16                                     | 5.00  |                                 |
| Granted                                | 700,000            | 1.33                                     | 5.00  |                                 |
| Granted                                | 660,000            | 0.01                                     | 8.00  |                                 |
| Granted                                | 75,000             | 0.10                                     | 10.00   |                                 |
| Granted                                | 2,400,000          | 1.00                                     | 5.00  |                                 |
| Granted                                | 1,415,260          | 3.00                                     | 1.00  |                                 |
| Granted                                | 1,412,500          | 0.01                                     | 10.00   |                                 |
| Granted                                | 146,750            | 1.75                                     | 5.00  |                                 |
| Forfeited                              | (3,495,000)        | (1.96)                                   | --  |                                 |
| Exercised                              | (427,000)          | (0.47)                                   | (6.31)  |                                 |
| Balance Outstanding December 31, 2012  | 19,807,876         | \$ 1.63                                  | 7.04  | \$ 32,194,216                   |
| Exercisable, December 31, 2012         | 15,472,876         | \$ 1.85                                  | 7.04  | \$ 28,626,216                   |

The Company expects all non-contingent outstanding employee stock options to eventually vest. As of December 31, 2012, there were total unrecognized compensation costs related to nonvested share-based compensation arrangements of \$1,328,375 which is expected to be recognized over the respective vesting periods which extend through 2015. As of December 31, 2011, there were total unrecognized compensation costs related to nonvested share-based compensation arrangements of \$412,389, which is expected to be recognized over the respective vesting periods which extend through 2013.

**Note 7. Income Taxes**

The Company files a consolidated U.S. income tax return that includes its U.S. subsidiary. The amounts provided for income taxes are as follows:

|   | Year Ended<br>December 31,<br>2012 | Year Ended<br>December 31,<br>2011 |
|---|------------------------------------|------------------------------------|
| Current (benefit) provision: federal                                      | \$ -                               | \$ -                               |
| Current (benefit) provision: state  | -                                  | -                                  |
| Total current provision   | -                                  | -                                  |
| Deferred (benefit) provision  | -                                  | -                                  |
| Deferred (benefit) provision relating to reduction of valuation allowance | -                                  | -                                  |
| Total deferred provision  | =                                  | =                                  |
| Total provision (benefit) for income taxes from continuing operations     | \$ =                               | \$ =                               |

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 7. Income Taxes (Continued)**

Significant items making up the deferred tax assets and deferred tax liabilities as of December 31, 2012 and 2011 are as follows:

|   | December 31, 2012 | December 31, 2011 |
|---|-------------------|-------------------|
| Deferred tax assets:                        |                   |                   |
| Net operating loss carry forward            | \$ 3,736,000      | \$ 1,973,400      |
| Capital loss carryover                      | 381,600           | 381,600           |
| Allowance for doubtful accounts             | 24,600            | 81,500            |
| Related party accruals                      | 17,800            | --                |
| Accrued vacation                            | 28,100            | 30,000            |
| Depreciation                                | 35,800            | --                |
| Allowance for obsolete inventory            | --                | 10,600            |
|   | 4,223,900         | 2,477,100         |
| Less: valuation allowance                   | (4,223,900)       | (2,477,100)       |
| Total deferred tax assets                   | --                | --                |
| Total deferred tax liabilities              | --                | --                |
| Total net deferred tax assets (liabilities) | \$ --             | \$ --             |

A valuation allowance is established if it is more likely than not that all or a portion of the deferred tax asset will not be realized. Accordingly, a valuation allowance was established in 2012 and 2011 for the full amount of our deferred tax assets due to the uncertainty of realization. Management believes that based upon its projection of future taxable operating income for the foreseeable future, it is more likely than not that the Company will not be able to realize the benefit of the deferred tax asset at December 31, 2012. The net changes in the valuation allowance during the year was an increase of \$1,746,800 in 2012.

At December 31, 2012, the Company had \$8,853,000 of net operating loss carry forwards which will expire in various years through 2032. Under the provision of the Tax Reform Act of 1986, when there has been a change in an entity's ownership of 50 percent or greater, utilization of net operating loss carry forwards may be limited. As a result of the Company's equity transactions, the Company's net operating losses may be subject to such limitations and may not be available to offset future income for tax purposes. Utilization of the net operating losses and credits may be subject to a substantial annual limitation due to the ownership change provisions of the Internal Revenue Code of 1986, as

amended. The annual limitation may result in the expiration of net operating losses and credits before utilization and in the event we have a change of ownership, utilization of the carry forwards could be restricted.

The Company's effective income tax expense (benefit) differs from the statutory federal income tax rate of 34% as follows:

|  | For the Year<br>Ended<br>December 31,<br>2012 | For the Year<br>Ended<br>December 31,<br>2011 |
|--|---|---|
| Federal tax rate applied to loss before income taxes | 34.0%   | 34.0%   |
| State income taxes, net of federal benefit           | 3.5%  | 3.5%  |
| Permanent differences                                | -0.9%   | -0.9%   |
| Change in valuation allowance                        | -39.4%  | -39.4%  |
| Other  | 2.8%  | 2.8%  |
| Income tax expense (benefit)                         | 0.0%  | 0.0%  |



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 8. Concentration of Credit Risk**

Financial instruments that potentially subject the Company to concentration of credit risk consist of cash and cash equivalents and accounts receivable. Cash and cash equivalents are deposited in the local currency in three financial institutions in the United States. The balance, at any given time, may exceed Federal Deposit Insurance Corporation insurance limits. As of December 31, 2012 and 2011, there was \$57,405 and \$30,883, respectively, in excess of insurable limits.

**Note 9. Related Party Transactions**

**Employment Contracts**

On March 1, 2011, the Board of Directors of the Company amended the employment agreements of Dr. Johnny R. Thomas and John C. Francis. Each of their employment agreements dated September 1, 2010 were amended effective February 1, 2011, to increase their annual salaries by \$75,000. Johnny R. Thomas's salary increased from \$99,000 to \$174,000 and John Francis's salary from \$75,000 to \$150,000.

Johnny R. Thomas and John C. Francis were each awarded five-year performance warrants to purchase 1,000,000 shares each at an exercise price of \$1.25 per share. The warrants will vest if and when the Company achieves certain revenues, net income and/or EBITDA milestones for four trailing quarters. For each executive officer, a total of 412,500 warrants vest upon four different milestones when annual revenues exceed revenue milestones increasing from \$50 to \$200 million. Achieving net income levels in excess of \$0.20/share to more than \$0.50/share will vest 262,500 warrants upon four different milestones. The remaining 325,000 warrants will vest upon four different milestones when the Company's EBITDA performance exceeds \$0.40/share to more than \$1.00 per share. Mr. Thomas and Mr. Francis also have the right to vest the warrants by exercising the warrants accordingly the value of the warrants has been expensed in the financial statements. In November 2012 the warrant exercise price was reduced to \$0.01 per share, the term of warrants were extended to 10 years and the vesting criteria was amended to remove the milestone criteria and to effectively vest immediately.

**Stock Subscription Receivables**

On June 17, 2008, two of Xnergy Inc. s former stockholders agreed to purchase the shares of another shareholder for \$2,486,850. Concurrent with this agreement, Xnergy, Inc. agreed to issue a promissory note for the payment for the stock. The liability was recorded along with notes receivable from the purchasing stockholders. The notes receivable were assumed by the Company in the purchase of Xnergy, Inc. and have no repayment terms, are non interest bearing and are unsecured accordingly they are classified as stock subscription receivables. As of December 31, 2011, the receivables totaled \$2,632,192. During the year ended December 31, 2012 the Company received and cancelled 877,364 shares of its common stock as satisfaction of the stock subscription receivables.

**Related Party Payables**

In connection with the purchase of Castrovilla and Xnergy, the Company entered into promissory notes to pay outstanding liabilities to the former shareholders. During the year ended December 31, 2012 the Company borrowed \$1,605,000 from a director. The notes payable are secured by certain of the Company s construction projects, due upon demand and bear interest at 12% per annum. A summary of the maturity of the related party payables is as follows:

| Year       | Amount of<br>Principal Payments<br>Due |           |
|------------|--|-----------|
| 2013       | \$                                     | 1,976,995 |
| 2014       |  | -         |
| 2015       |  | -         |
| 2016       |  | -         |
| 2017       |  | -         |
| Thereafter |  | -         |
| Total      | \$                                     | 1,976,995 |

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 10 . Accrued Expenses**

A summary of Accrued Expenses as of December 31, are as follows:

|                            | 2012       |    | 2011    |
|----------------------------|------------|----|---------|
| Accrued Consulting Fees    | \$ 220,631 | \$ | 289,693 |
| Credit Cards Payable       | 149,122    |    | 154,948 |
| Accrued Interest Payable   | 51,786     |    | -       |
| Reserve for Warranty       | 1,717      |    | 25,241  |
| Other Accrued Expenses     | -          |    | 142,224 |
| Warrant Exercise Liability | -          |    | 8,000   |
| Total                      | \$ 423,256 | \$ | 620,106 |

**Note 11. Long Term Debt****Bank Line of Credit**

Bank line of credit, opened on April 16, 2008, maturity on April 15, 2013; \$50,000 credit limit, adjustable interest rate currently at 5.5% , unsecured

December 31, 2012

\$

48,812

**Promissory Notes Payable**

The Company assumed promissory notes payable in connection with the purchase of Xnergy, Inc. and its subsidiary HVAC Controls, Inc. As a result of the purchase of Xnergy, Inc. by the Company the notes were rewritten. The notes payable are secured in part by the shares of the Company. The promissory notes now provide for interest at 7.75% per annum. During the year ended December 31, 2012 the Company issued 1,185,389 shares of its common stock upon the conversion of \$1,391,188 of debt. During the year ended December 31, 2012 the Company received \$500,000 from subordinated promissory notes payable. The notes accrue interest at 10% per annum, are unsecured and are due 6 months from the date of issuance. The Company repaid \$50,000 of the subordinated promissory notes payable during the year ended December 31, 2012.

| Year       | Amount of<br>Principal Payments<br>Due |         |
|------------|--|---------|
| 2013       | \$                                     | 436,167 |
| 2014       |  | -       |
| 2015       |  | -       |
| 2016       |  | -       |
| 2017       |  | -       |
| Thereafter |  | -       |
| Total      | \$                                     | 436,167 |

### Automobile Contracts Payable

The Company has entered into purchase contracts for its vehicles. The contracts bear interest at an average interest rate of approximately 5% per annum, are secured by the vehicles. The composition of these loans and notes payable are

summarized in the table below:

| Year       | Amount of Principal<br>Payments Due |        |
|------------|-------------------------------------|--------|
| 2013       | \$                                  | 18,407 |
| 2014       |                                     | -      |
| 2015       |                                     | -      |
| 2016       |                                     | -      |
| 2017       |                                     | -      |
| Thereafter |                                     | -      |
| Total      | \$                                  | 18,407 |

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 12. Acquisition of Subsidiaries**Castroville, Inc.

Effective January 1, 2011, Castroville Energy, Inc., Energy, a newly formed subsidiary of Blue Earth Energy Management Services, Inc., which is a subsidiary of Blue Earth, Inc, entered into a merger agreement with Castroville, Inc. wherein Energy purchased all of the issued and outstanding shares of Castroville, Inc. for 1,011,905 shares of restricted common stock of Blue Earth, Inc. These shares were valued based on the quoted market price on the effective date of the transaction, January 1, 2011, at \$1.90 per share, or \$1,921,081.

Immediately after the transaction, Energy ceased to exist and Castroville, Inc. became the surviving corporation, a wholly owned subsidiary of Blue Earth Energy Management Services, Inc.. Simultaneous with this purchase, Energy entered into an asset purchase agreement with Humitech of NC, LLC, Humitech, whereby the assets of Humitech and certain related liabilities were sold to Energy for \$150,000 cash and 267,857 restricted common shares of Blue Earth, Inc. valued based on the quoted market price on the effective date of the transaction, January 1, 2011, at \$1.90 per share or \$508,928.

The purchase resulted in a distributorship asset and customer base of \$2,458,250. The reason for the purchase was to expand the Company's energy efficiency operations. According to the purchase method of accounting, the acquisition was recorded as follows:

| Purchase Price         | Shares    | Price   | Total        |
|------------------------|-----------|---------|--------------|
| Castroville            | 1,011,095 | \$ 1.90 | \$ 1,921,081 |
| Humitech               | 267,857   | \$ 1.90 | 508,928      |
| Cash                   |           |         | 150,000      |
| Total Purchase Price   |           |         | \$2,580,009  |
| Assets at Fair Value   |           |         |              |
| Cash                   |           |         | \$ 466,620   |
| Accounts receivable    |           |         | 325,199      |
| Inventory              |           |         | 150,627      |
| Property and equipment |           |         | 53,088       |

|                                   |             |
|-----------------------------------|-------------|
| Other assets                      | 115,804     |
| Distributorship and customer base | 2,458,250   |
| Total Assets                      | \$3,569,588 |

## Liabilities Assumed at Fair Value

|                                       |              |
|---------------------------------------|--------------|
| Accounts payable and accrued expenses | \$ 414,314   |
| Notes payable                         | 575,265      |
| Cash                                  | 150,000      |
| Equity                                | 2,430,009    |
| Total Liabilities and Equity          | \$ 3,569,588 |

The Company has recognized revenues of \$3,858,020 for the year ended December 31, 2011 for Castrovilla. The Company has recognized a net loss \$608,367 for the year ended December 31, 2011 for Castrovilla.

In the acquisition the Company issued an aggregate of 1,011,095 shares of its Common Stock, initially valued at \$1.68 per share or \$1,700,000 on the date the agreement was made, to the stockholders of Castrovilla, Inc. in exchange for all of the outstanding capital stock of Castrovilla, Inc. All of the 1,279,762 shares issued in the Castrovilla Acquisition (collectively, the Company Shares ) are subject to Lock-up/Leak-out and Guaranty Agreements, as amended. The two Castrovilla, Inc. stockholders, John Pink, who continues as President of Castrovilla, Inc. and Adam Sweeney, together with Humitech (the Stockholders ) could not sell any of the Company Shares for a six-month period beginning on the Effective Date of the Plan of January 1, 2011 and ending on June 30, 2011. Thereafter and ending June 30, 2013, the three stockholders may sell up to 2,461 Company Shares per trading day in the aggregate until all Company Shares are sold (the Lock-up Period ). The Company contingently guaranteed (the Guaranty ) to the Stockholders the net sales price of \$1.68 per share, provided the Stockholders are in compliance with the terms and conditions of the Lock-up Agreement and the hereinafter described performance criteria are met.

**BLUE EARTH, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**DECEMBER 31, 2012 AND 2011**

**Note 12. Acquisition of Subsidiaries (Continued)**

A number of shares equal in value to fifty percent (50%) of the profits, if any, from the sale of shares above \$3.36 per share during the Lock-up Period will be returned to the Company. Any deficit from sales below \$1.68 per share shall be paid (i) 50% in cash, and (ii) the remaining 50% in either cash or shares of Common Stock of the Company provided certain Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) performance criteria are achieved as discussed in the next paragraph (at their then current fair market value, or any combination thereof, at the sole discretion of the party making the payment).

In the event that Castrovilla Inc.'s EBITDA during the Lock-up Period is less than the budgeted amount of \$722,000 of EBITDA per year for each of the years ended December 31, 2012 and 2013, the \$1.68 per share guaranteed price shall be decreased by the same percentage decrease that EBITDA is below the projected \$722,000 of EBITDA. All of such calculations will be in accordance with GAAP and derived from the Company's reviewed financial statements for the first three fiscal quarters of the fiscal year and audited financial statements for the full year.

The targeted EBITDA for the 12-month period from July 1, 2011 to June 30, 2012 is \$722,000, or \$180,500 per quarter (the quarterly rate of \$180,500 is a constant for each quarter through to the end of the Lock-up/Guarantee period). Therefore, the Targeted EBITDA for the 12-months ended December 31, 2011, was \$722,000. The targeted EBITDA for each subsequent 12 month period shall be \$722,000, which shall be compared to the actual performance for the most recent 12 month reporting period as illustrated above and multiplied times \$1.68 to arrive at the guaranteed share price, if any. These targeted amounts may be reduced if a majority of the Board of Directors agree on budget changes which require an acceleration of expenses thereby affecting a current year's budgeted EBITDA. No adjustment in the targeted amounts for guarantee purposes has been made and none is contemplated at this time. The Company does not anticipate any guaranty prior to April of 2012, due to the decision to expand Castrovilla's operations into several new states.

In addition, under the Plan, the Company paid \$50,000 to an unaffiliated third party for an existing obligation of Castrovilla, Inc. The above described Castrovilla Acquisition was completed on January 19, 2011, with an effective date of January 1, 2011. Pursuant to the terms and conditions of the Plan described above, Castrovilla Energy, Inc., a wholly-owned subsidiary of the Company, was merged with and into Castrovilla, Inc., the Surviving Corporation, on January 21, 2011.

Xnergy, Inc. and Subsidiary

On September 7, 2011 the Company acquired 100% of the outstanding common stock of Xnergy, Inc. and its wholly-owned subsidiary HVAC Controls & Specialties, Inc., a Carlsbad, California based energy services company ( Xnergy ). Simultaneously, the Company purchased all of the membership interests of ecoLegacy, LLC ( eco ), a California limited liability company, which serves as a financing vehicle for Xnergy. Xnergy provides a broad range of energy solutions including specialized mechanical engineering and the design, construction and implementation of energy savings projects, energy conservation, energy infrastructure outsourcing, power generation and energy supply and risk management. Xnergy also provides comprehensive maintenance and service programs, including every aspect of heating, ventilation and air-conditioning (HVAC), mechanical systems for design-build to repair and retrofit services.

Xnergy has an alternative energy project pipeline opportunity of approximately \$585 million. The projects are all located in California and the target clients are those that have a premium credit rating and have large energy needs. These candidates include hotels/casinos, industrial manufacturing, life sciences, telecommunications, medical, churches, pharma and public facilities. The \$585 million alternative energy project pipeline is comprised of designing, building, implementing and servicing three cutting-edge alternative energy technologies: Solar PV, Geothermal and Fuel Cells.

The Company issued 4,500,000 shares of its common stock for all of the outstanding shares of Xnergy valued at \$3.00 per share in the merger agreement. However, the common shares were subsequently valued at \$1.72 per share for accounting purposes based upon the average closing price of the Company's common stock from September 8, 2011 through trading on September 26, 2011. The Company also assumed the obligation of \$1,415,088 due to a former shareholder of Xnergy for the purchase of his shares by the exchanging shareholders of Xnergy. The Company assumed \$143,681 of debt as the consideration for the purchase of ecoLegacy, a California limited liability company. Hence, for valuation purposes, the proper price/share for accounting purposes is \$1.72/share or \$7,740,000 for the shares plus the cash component as stated above.



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 12. Acquisition of Subsidiaries (Continued)**

The purchase resulted in a distributorship asset and customer base of \$9,137,225. The reason for the purchase was to expand the Company's energy efficiency operations. According to the purchase method of accounting, the acquisition was recorded as follows:

| Purchase Price                                     | Shares    | Price   | Total         |
|--|-----------|---------|---------------|
| Xnergy, Inc. and HVAC Controls & Specialties, Inc. | 4,500,000 | \$ 1.72 | \$ 7,740,000  |
| Total Purchase Price                               |           |         | \$ 7,740,000  |
| Assets at Fair Value                               |           |         |               |
| Cash   |           |         | \$1,442,319   |
| Receivables  |           |         | 710,437       |
| Other current assets                               |           |         | 150,278       |
| Property and equipment                             |           |         | 86,548        |
| Related party receivable                           |           |         | 2,632,192     |
| Customer base                                      |           |         | 9,137,225     |
| Total Assets                                       |           |         | \$14,158,999  |
| Liabilities Assumed at Fair Value                  |           |         |               |
| Accounts payable                                   |           |         | \$ 379,227    |
| Accrued liabilities                                |           |         | 1,606,074     |
| Notes payable                                      |           |         | 4,433,698     |
| Equity   |           |         | 7,740,000     |
| Total Liabilities and Equity                       |           |         | \$ 14,158,999 |

The Company has recognized revenues of \$1,457,643 for the four months ended December 31, 2011 for Xnergy and HVAC. The Company has recognized a net loss \$962,723 for the four months ended December 31, 2011 for Xnergy and HVAC.

The table below presents, on a retroactive basis the condensed consolidated statements of operations for the periods presented to include the operations of Castrovilla and Xnergy. In the above referenced acquisitions Castrovilla and Xnergy were not considered the predecessor for accounting purposes. The pro forma condensed consolidated statements of operations are presented below for comparative purposes and to provide additional information and disclosure to the reader.

*Proforma Condensed Consolidated Statement of Operations*

|          | December 31,<br>2011 |             |
|----------|----------------------|-------------|
| Revenues | \$                   | 8,682,109   |
| Net Loss | \$                   | (7,244,198) |

**Note 13. Operating Segments**

Operating segments are defined as components of an enterprise about which separate and discreet financial information is available and is evaluated regularly by the chief operating decision-maker in assessing performance and determining how to best allocate Company resources. The Company's chief operating decision makers direct the allocation of resources to operating segments based on the profitability and cash flows of each respective segment.

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 13. Operating Segments (Continued)**

The Company has three principal operating segments: (1) construction of alternative energy facilities, (2) HVAC construction and management, and (3) energy efficiency remediation. These operating segments were delineated based on the nature of the products and services offered.

The Company evaluates the financial performance of the respective segments based on several factors, of which the primary measure is business segment income before taxes. The accounting policies of the business segments are the same as those described in Note 2: Significant Accounting Policies. All significant intercompany transactions and balances have been eliminated. The following tables show the operations of the Company's reportable segments for the years ended December 31, 2012:

|                          | Management and<br>Construction | HVAC<br>Services | Energy<br>Efficiency | Consolidated    |
|--------------------------|--------------------------------|------------------|----------------------|-----------------|
| <u>December 31, 2011</u> |                                |                  |                      |                 |
| Revenues                 | \$ 405,060                     | \$ 1,052,584     | \$ 3,858,020         | \$ 5,315,664    |
| Cost of revenues         | 113,967                        | 966,266          | 1,758,044            | 2,838,277       |
| Operating expenses       | 12,877,649                     | 97,367           | 2,668,824            | 15,643,840      |
| Other income (expense)   | (805,425)                      | (7,589)          | (39,519)             | (852,533)       |
| Net income (loss)        | \$ (13,391,981)                | \$ (18,638)      | \$ (608,367)         | \$ (14,018,986) |
| <br>                     |                                |                  |                      |                 |
| Total assets             | \$ 12,707,606                  | \$ 251,900       | \$ 1,266,566         | \$ 14,226,072   |

**Note 14. Subsequent Events**Issuances of Common Stock

On January 7, 2013 the Company issued 3,000 shares of its common stock to consultants for services valued at \$1.10 per share. On January 14, 2013 the Company issued 45,000 shares upon the exercise of warrants per the terms of the employment agreement. On January 16, 2013 the Company issued 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$1,380. On January 22, 2013 the

Company issued 100,000 shares upon the exercise of warrants per the terms of the employment agreement. On January 23, 2013 the Company issued 28,000 shares of common stock upon the conversion of 2,500 shares of its Series B preferred stock and accrued dividends of \$3,270. On January 30, 2013 the Company issued 70,000 shares of common stock upon the conversion of 6,250 shares of its Series B preferred stock and accrued dividends of \$8,745. On February 5, 2013 the Company issued 162,162 shares of its common stock to consultants for services valued at \$0.92 per share. On February 8, 2013 the Company issued 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$1,415. On February 22, 2013 the Company issued 92,115 shares of its common stock as a commitment fee for the Company's line of credit valued at \$1.09 per share. On February 27, 2013 the Company issued 50,000 shares upon the exercise of warrants per the terms of the consulting agreement. On March 8, 2013 the Company issued 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$1,212. On March 12, 2013 the Company issued 4,854 shares of its common stock to consultants for services valued at \$1.01 per share. On March 20, 2013 the Company issued 165,000 shares upon the exercise of warrants per the terms of the employment agreement. On March 22, 2013 the Company issued 25,000 shares as an incentive to a lender to extend the expiration date of an outstanding note payable. On March 27, 2013 the Company issued 155,588 shares upon the conversion of related party debt of \$152,165.

**BLUE EARTH, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**DECEMBER 31, 2012 AND 2011**

**Note 14. Subsequent Events (Continued)**

On April 2, 2013 the Company issued 30,000 shares of its common stock upon the cashless exercise of warrants for services valued at \$33,000 and 140,000 shares upon the exercise of warrants for net cash of \$126,000. On April 8, 2013 the Company issued 55,000 shares of its common stock upon the exercise of warrants for cash of \$550 and 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$1,212. On April 10, 2013 the Company issued 4,717 shares of its common stock upon the cash exercise of warrants for services valued at \$5,000. On April 12, 2013 the Company issued 150,000 shares of its common stock upon the exercise of warrants for net cash of \$150,000. On April 15, 2013 the Company issued 298,000 shares of its common stock upon the exercise of warrants for net cash of \$298,000 and 72,000 shares of its common stock upon the exercise of warrants for services valued at \$77,136. On April 16, 2013 the Company issued 225,000 shares of its common stock upon the exercise of warrants for net cash of \$225,000 and 28,000 shares of its common stock upon the conversion of 2,500 shares of its Series B preferred stock and accrued dividends of \$3,540. On April 24, 2013 the Company issued 300,000 shares of its common stock upon the exercise of warrants for net cash of \$300,000. On April 25, 2013 the Company issued 3,496 shares of its common stock upon the cash exercise of warrants for services valued at \$5,000 and 90,771 shares upon the exercise of warrants for net cash of \$26,421. On May 14, 2013 the Company issued 50,000 shares of its common stock for services valued at \$59,000 and 82,892 shares upon the conversion of related party debt of \$119,707. On May 16, 2013 the Company issued 160,000 shares of its common stock upon the exercise of warrants for cash of \$61,000 and 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$2,148. On May 20, 2013 the Company issued 279,000 shares of its common stock upon the exercise of warrants for cash of \$279,000. On May 21, 2013 the Company issued 50,000 shares of its common stock upon the exercise of warrants for cash of \$500. On June 3, 2013 the Company issued 560,000 shares of common stock upon the conversion of 50,000 shares of its Series B preferred stock and accrued dividends of \$144,000. On June 4, 2013 the Company issued 336,000 shares of common stock upon the conversion of 30,000 shares of its Series B preferred stock and accrued dividends of \$86,760. On June 6, 2013 the Company issued 56,000 shares of common stock upon the conversion of 5,000 shares of its Series B preferred stock and accrued dividends of \$17,400. On June 11, 2013 the Company issued 224,000 shares of common stock upon the conversion of 20,000 shares of its Series B preferred stock and accrued dividends of \$62,400. On June 12, 2013 the Company issued 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$3,396. On June 13, 2013 the Company issued 168,000 shares of common stock upon the conversion of 15,000 shares of its Series B preferred stock and accrued dividends of \$52,920. On June 17, 2013 the Company issued 64,263 shares of its common stock for the purchase of equipment valued at \$195,360. On June 18, 2013 the Company issued 112,000 shares of common stock upon the conversion of 10,000 shares of its Series B preferred stock and accrued dividends of \$36,840. On June 19, 2013 the Company issued 49,000 shares of its common stock upon the exercise of warrants for net cash of \$85,750. On June 21, 2013 the Company issued 10,000 shares of its common stock upon the exercise of warrants for net cash of \$17,500. On June 24, 2013 the Company issued 336,000 shares of common stock upon the conversion of 30,000 shares of its Series B preferred stock and accrued dividends of \$113,760. On June 21, 2013 the Company issued 12,250 shares of its common stock upon the exercise of options and warrants for net cash of \$20,918. On June 11, 2013 the Company received 92,115 shares of its common stock which

had previously been issued as loan fees on the credit line. On June 28, 2013 the Company received 366,529 shares of its common stock which had previously been issued as a deposit for several solar energy projects in Hawaii. These shares were subsequently canceled and are not recorded as issued or outstanding as of June 30, 2013.

On July 15, 2013 the Company issued 11,200 shares of common stock upon the conversion of 1,000 shares of its Series B preferred stock and accrued dividends of \$3,480. On July 22, 2013 the Company issued 600,000 shares of common stock upon the exercise of warrants for cash of \$6,000 and 37,064 shares of common stock upon the cashless exercise of 65,500 warrants. On July 23, 2013 the Company issued 1,000 shares of its common stock upon the exercise of options for net cash of \$1,230 and 1,383,400 shares of common stock upon the conversion of 303,902 shares of its Series B preferred stock and accrued dividends of \$1,545,387. On July 29, 2013 the Company issued 10,250 shares of its common stock upon the exercise of warrants for net cash of \$17,938. On August 5, 2013 the Company issued 501,417 shares of common stock upon the exercise of warrants for cash of \$7,437. On August 6, 2013 the Company issued 120,000 shares of common stock for services valued at \$352,800. On August 7, 2013 the Company issued 3,501 shares of common stock upon the cashless exercise of 8,250 warrants. On August 23, 2013 the Company issued 80,165 shares of common stock upon the cashless exercise of 179,659 warrants. On August 28, 2013 the Company issued 56,000 shares of common stock upon the conversion of 5,000 shares of its Series C preferred stock and accrued dividends of \$18,180. On September 4, 2013 the Company issued 100,000 shares of common stock upon the exercise of warrants for cash of \$1,000. On September 5, 2013 the Company issued 1,667 shares of common stock upon the exercise of warrants for cash of \$2,867.

#### Issuance of Preferred Stock

During June 30, 2013 the Company issued 903,500 shares of Series C preferred stock at \$10 per share. Each Series C preferred share is convertible to 10 shares of the Company's common stock and accrues a dividend of 12% per annum. The Company incurred \$191,500 of costs related to the Series C preferred stock offering which are netted against the proceeds of the offering.

**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 14. Subsequent Events (Continued)**

Credit Line Payable

Subsequent to December 31, 2012 the Company received \$1,500,000 in proceeds from a line of credit. The Company repaid the line \$1,500,000 during June 30, 2013. The line of credit is for up to \$10,000,000 subject to approval of the use of proceeds by the lender. The line of credit accrues interest at 12% per annum and is secured by the Company's assets.

Related Party Notes Payable

Subsequent to December 31 2012 the Company received \$420,000 in proceeds from a demand note payable from a director of the Company. The Company also repaid \$691,853 of principal and \$58,147 of accrued interest on several demand notes to the director subsequent to December 31, 2012. The demand notes payables accrue interest at 12% per annum and are unsecured.

Acquisitions

As of July 15, 2013, the Company, together with its wholly-owned subsidiary IPS Acquisition Corp., simultaneously entered into and completed an Agreement and Plan of Merger (the Agreement) dated as of July 15, 2013, with IPS Power Engineering Inc. (IPS), Global Renewable Energy Group, Inc. (GREG) and the Stockholders of IPS and GREG (the Acquisitions). IPS is an EPCM company (engineering, procurement, construction and management) and GREG is an affiliated renewable energy company, which companies specialize in the combined heat and power (CHP) alternative energy space. The Company plans to build seven power plants and sell the thermal and electric power generated to one large customer and to local utilities through long-term power purchase agreements. Pursuant to the terms of the Agreement, an aggregate of 15,550,000 shares of Blue Earth Common Stock (the Merger Consideration) was issued to the former stockholders of IPS and GREG (the Stockholders). The Merger Consideration was determined by the parties based on the mutually agreed upon future revenues and earnings forecast prepared by management of IPS and GREG. The Merger Consideration consists of: 5,000,000 Blue Earth shares issued at closing to the Stockholders, which vested immediately but are subject to lock-up agreements; 150,000 Blue Earth shares issued as a finder's fees; and 10,500,000 Blue Earth shares issued at closing to the Stockholders, and held in escrow, and which will vest at the rate of 1,500,000 Blue Earth shares per Initial Project (as defined) on the date that each of the Initial Projects or substituted similar value as mutually agreed to by Blue Earth and IPS, commences producing commercial power. The 10,500,000 Blue Earth shares will be released, pro rata, from escrow upon the commercial operation date of each Initial Project, however, subject to the terms and conditions of the Lock-Up Agreements. At the

Closing the Stockholders exchanged 100% of the outstanding shares of IPS and GREG for the Merger Consideration. Through the Agreement, IPS Acquisition Corp. and GREG merged with and into IPS, with IPS as the surviving entity, in accordance with the Utah Revised Business Corporation Act. IPS will be operated as a wholly-owned subsidiary of the Company.

As of July 24, 2013 the Company, together with its wholly-owned subsidiary Intelligent Power Acquisition, Inc. simultaneously entered into and completed an Agreement and Plan of Merger (the Agreement), with Intelligent Power, Inc. ( IP ), and the Stockholders of IP (the Acquisition). IP owns patented demand response, cloud based, real-time energy management technology. Pursuant to the terms of the Agreement, an aggregate of 1,383,400 shares of the Company's Common Stock (the Merger Consideration) was issued to the former stockholders of IP (the Stockholders). At the Closing the Stockholders exchanged 100% of the outstanding shares of IP for the Merger Consideration. Through the Agreement, Intelligent Power Acquisition, Inc. merged with and into IP, with IP as the surviving entity, in accordance with the Oregon Business Corporations Act. IP will be operated as a wholly-owned subsidiary of the Company.

As of August 23, 2013, the Company, together with its wholly-owned subsidiary MPS Acquisition Corp., simultaneously entered into and completed an Agreement and Plan of Merger (the Agreement) dated with MPS and the Key Members of MPS (the Acquisition). MPS designs and manufactures intelligent, digital, rechargeable battery products and backup systems with twice the energy of lead acid batteries in a smaller space. The environmentally friendly product is completely recyclable with no issues of hazardous out-gassing, corrosion, flammable or explosive characteristics. The initial, patent pending, intelligent Battery Backup System designed and manufactured by MPS was created for signalized intersections when loss of utility power occurs. The UltraPower Stealth Battery Backup System (UPStealth™) can be formed in various configurations that allow the intelligent battery to bend around corners and fit into spaces that cannot be accessed by traditional battery backup systems. Pursuant to the terms of the Agreement, an aggregate of 3,694,811 shares of the Company's common stock (the Merger Consideration) was issued to the former members of MPS (the Members). In addition, the principals of MPS are entitled to receive a per-year earn-out equal to ten (10%) percent of the profits of MPS as a separate wholly-owned subsidiary of the Company payable in shares of the Company's common stock valued at the then current fair market value. The earn-out is limited to a five year period and has an aggregate cap of \$3,572,199. At the closing the stockholders exchanged 100% of the outstanding membership interests of MPS for the Merger Consideration. Through the Agreement, MPS Acquisition Corp. was merged with and into MPS, with MPS as the surviving entity, in accordance with the Oregon Business Corporations Act. MPS will be operated as a wholly-owned subsidiary of the Company.



**BLUE EARTH, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2012 AND 2011**

**Note 14. Subsequent Events (Continued)**

On August 30, 2013 the Company entered into a Strategic Partnership Agreement with Talesun Solar USA, Ltd. ( Talesun ) and New Generation Power LLC ( NGP ), which includes a commitment from Talesun to grant the Company engineering, procurement and construction contracts ( EPC ) for 18 MW of Talesun Solar PV projects. NGP granted the Company EPC contracts for a minimum of 147 MW of projects over the next 20 months. In addition, the Company has agreed to make a \$6.5 million investment in solar projects. It is the intent of the parties that Talesun is a preferred solar panel vendor for the Company's solar projects and that the Company is a preferred EPC vendor for other Talesun solar projects. The Company is investing the \$6.5 million dollars in solar projects through a combination of \$1 million in cash and \$5.5 million through the issuance of 1,833,333 shares of the Company's common stock valued at \$3.00 per share. The \$6.5 million investment is a loan to NGP in consideration of the purchase of 7 MW of solar panels to be utilized on NGP's solar PV projects. The loan will be repaid during the construction phase of the projects. Until the \$6.5 million is repaid, the solar equipment will serve as collateral.

In accordance with ASC 855, the Company evaluated subsequent events through the date these financial statements were issued. There were no additional material subsequent events that required recognition or additional disclosure in these financial statements.



**Item 15. Exhibits and Financial Statement Schedules.**

**Exhibit**

| <b>No.</b> | <b>Description</b>  |
|------------|---|
| 2.1        | Agreement and Plan of Merger, dated as of October 30, 2009, by and among Genesis Fluid Solutions Holdings, Inc., Genesis Fluid Solutions, Ltd. and Genesis Fluid Solutions Acquisition Corp.(1) |
| 2.2        | Certificate of Merger, dated October 30, 2009 merging Genesis Fluid Solutions Acquisition Corp. with and into Genesis Fluid Solutions, Ltd.(1)  |
| 2.3        | Plan of Merger for Genesis Solutions Holdings, Inc. into Blue Earth, Inc.(6)  |
| 2.4        | Asset Purchase Agreement effective January 1, 2011, by and among Castrovilla Energy Inc., Blue Earth Inc. and Humitech of Northern California, LLC(8)   |
| 2.5        | Agreement and Plan of Merger by and among Castrovilla Energy, Inc., Blue Earth, Inc. and the Stockholders of Castrovilla Inc.(7)  |
| 3.1        | Articles of Incorporation(5)  |
| 3.2        | Bylaws(5)   |
| 3.3        | Certificate of Designations and Preferences for Series A Convertible Preferred Stock (9)  |
| 3.4        | Certificate of Designation and Preferences for Series B Convertible Preferred Stock (15)  |
| 4.1        | Specimen Stock Certificate(11)  |
| 4.2        | Form of Performance Warrant(14)   |
| 10.1       | Form of Subscription Agreement(1)   |
| 10.2       | Form of Investor Warrant (1)  |
| 10.3       | Form of Registration Rights Agreement(1)  |
| 10.4       | Form of Lockup Agreement(1)   |
| 10.5       | Form of Placement Agent Warrant(1)  |
| 10.6       | Form of Directors and Officers Indemnification Agreement(1)   |
| 10.7       | Blue Earth, Inc. 2009 Equity Incentive Plan(8)  |
| 10.8       | Form of 2009 Incentive Stock Option Agreement(1)  |
| 10.9       | Form of 2009 Non-Qualified Stock Option Agreement(1)  |
| 10.10      | Consulting Agreement, dated May 11, 2009, between Genesis Fluid Solutions and Liviakis Financial Communications, Inc.(1)  |
| 10.11      | Amendment to Consulting Agreement, dated October 20, 2009, between Genesis Fluid Solutions and Liviakis Financial Communications, Inc.(1)   |
| 10.12      | Employment Agreement, effective as of September 1, 2010 by and between Genesis Fluid Solutions Holdings, Inc. and Dr. Thomas.(6)  |
| 10.13      | Employment Agreement, effective as of September 1, 2010 by and between Genesis Fluid Solutions Holdings, Inc. and Mr. Francis.(6)   |
| 10.14      | Form of Class A Funding Warrant dated December 31, 2010.(11)  |
| 10.15      | Form of Class B Funding Warrant.(11)  |
| 10.16      | Form of Class C Funding Warrant.(11)  |
| 10.17      | Form of Management Warrant issued to Johnny R. Thomas and John C. Francis designees.(11)  |
| 10.18      | Amendment to Consulting Agreement dated as of December 21, 2010 by and between Blue Earth, Inc. and Liviakis Financial Communications, Inc. (11)  |
| 10.19      | Warrant issued to Liviakis Financial Communications, Inc. as of December 21, 2010.(11)  |
| 10.20      | Warrant issued to Laird Cagan dated February 24, 2011. (11)   |
| 10.21      | Consulting Agreement dated February 24, 2011 by and between Cagan MacAfee Capital Partners, LLC and Blue Earth, Inc. (11)   |



**Exhibit**

| <b>No.</b> | <b>Description</b>  |
|------------|---|
| 10.22      | Employment Agreement, dated as of January 1, 2011 by and between Castroville Inc. and John Pink. (7)  |
| 10.23      | Lock-Up Agreement, dated as of December 30, 2010, by and among John Pink, Adam Sweeney and Humitech of Northern California, LLC, Castroville Inc. and Blue Earth, Inc.(7)   |
| 10.24      | Guaranty Agreement, dated as December 29, 2010, by and among John Pink, Adam Sweeney, Castroville Energy and Blue Earth, Inc.(7)  |
| 10.25      | Termination and Release Agreement dated as of October 1, 2010 by and among Genesis Fluid Solutions Holdings, Inc., Genesis Fluid Solutions, Ltd., Michael Hodges and Sichenzia Ross Friedman Ference LLP. (11)                                |
| 10.26      | Form of Subscription Agreement issued in 2011 Preferred Stock Offering (9)  |
| 10.27      | Form of Class A Warrant issued in 2011 Preferred Stock Offering (9)   |
| 10.28      | Finance Agreement, dated as of December 19, 2011, by and between Blue Earth, Inc. and US Energy Affiliates, Inc.(10)  |
| 10.29      | Capital Stock Purchase and Lease Agreement.(13)   |
| 10.30      | Promissory Note, issued by the Company to Jeff Gosselin, in the principal amount of \$1,357,358.41.(13)   |
| 10.31      | Mutual Hold Harmless and Indemnification Agreement.(13)   |
| 10.32      | Purchase and Sale Agreement dated as of July 26, 2012, by and between White Horse Energy, LLC, as Seller and Blue Earth, Inc. as Buyer. (16)  |
| 10.33      | Settlement Agreement and Release of Claims effective on July 30, 2012, by and between SwitchGenie, LLC (d/b/a Logica Lighting Controls, LLC), Blue Earth, Inc., Blue Earth Energy Management, Inc., James F. Loughrey and Kaye Loughrey. (16) |
| 10.34      | Non-Exclusive License and Supply Agreement made July 30, 2012 by and among Logica Lighting Controls, LLC (formerly SwitchGenie LLC), James F. Loughrey, and Blue Earth, Inc. (16)   |
| 10.35      | Secured Promissory Note dated October 30, 2012 to Laird Q. Cagan.(17)   |
| 10.36      | Independent Consulting Agreement dated November 6, 2012 by and between Blue Earth, Inc. and Laird Cagan.(18)  |
| 10.37      | Secured Promissory Note dated December 12, 2012 from the Company to Laird Cagan.(20)  |
| 10.38      | Security Agreement dated as of December 12, 2012 from Blue Earth to Laird Cagan.(20)  |
| 10.36      | Common Stock Purchase Warrant dated as of December 12, 2012 from Blue Earth to Laird Cagan. (20)  |
| 10.40      | Credit Facility Agreement, dated as of January 31, 2013 and effective February 22, 2013, by and among the Company, the Lender and the Subsidiaries.(21)   |
| 10.41      | Revolving Line of Credit Note, issued by the Company and the Subsidiaries to the Lender, issued as of January 31, 2013 and effective February 22, 2013.(21)   |
| 16.1       | Letter from Davis Accounting Group P.C. (12)  |
| 16.2       | Letter from Salberg & Company P.A. dated October 28, 2010.(5)   |
| 16.3       | Letter from Lake & Associates, CPA s, LLC dated December 11, 2012.(19)  |
| 21         | List of Subsidiaries  |
| *23.1      | Consent of HJ & Associates, LLC. (19)   |
| *31.1      | Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.  |
| *31.2      | Certification of Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.  |
| *32.1      | Certificate of the Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley of 2002.  |
| *32.2      | Certificate of the Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.(21)  |



|          |  |
|----------|--|
| *101INS  | XBRL Instance Document                                 |
| *101.SCH | XBRL Taxonomy Extension Schema Document                |
| *101.CAL | XBRL Taxonomy Extension Calculation Linkbase Document  |
| *101.DEF | XBRL Taxonomy Extension Definition Linkbase Document   |
| *101.LAB | XBRL Taxonomy Extension Label Linkbase Document        |
| *101.PRE | XBRL Taxonomy Extension Presentation Linkbase Document |

\* Filed with this Report

(1) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on November 5, 2009, as amended on November 16, 2009 and December 14, 2009.

(2) Incorporated herein by reference to the copy of such document included as Exhibit 10.1 to our Current Report on Form 8-K filed on December 21, 2009.

(3) Incorporated herein by reference to the copy of such documents included as Exhibit 10.1 and Exhibit 10.2 to our Current Report on Form 8-K filed on December 24, 2009.

(4) Incorporated herein by reference to the copy of such document included as an exhibit to our Annual Report on Form 10-K filed on April 15, 2010

(5) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on October 29, 2010

(6) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on August 31, 2010

(7) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on January 24, 2011

(8) Incorporated herein by reference to the copy of such document included as an exhibit to our Annual Report on Form 10-K filed on March 31, 2011

(9) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K/A filed on September 29, 2011

(10) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on December 23, 2011

(11) Incorporated by reference to the copy of such document included as an exhibit to our Current Report on Form 10-K for March 31, 2010 filed on March 31, 2011

(12) Incorporated herein by reference to the copy of such document included as Exhibit 16.1 to our Current Report on Form 8-K filed on January 28, 2010.

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(13) Incorporated herein by reference to the copy of such document included as an exhibit to our Annual Report on Form 10-K for the year ended December 31, 2011 filed on April 16, 2012.

(14) Incorporated by reference herein to the copy of such document filed as an exhibit to our Registration Statement on Form S-8 filed on April 27, 2012.

(15) Incorporated by reference to the copy of such document included as Exhibit 3.1 to our Current Report on Form 8-K filed on April 10, 2012.

(16) Incorporated by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on August 1, 2012.

(17) Incorporated by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on November 2, 2012.

(18) Incorporated by reference to the copy of such document included as an exhibit to our Quarterly Report on Form 10-Q filed on November 13, 2012.

(19) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on December 13, 2012.

(20) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K/A Amendment NO. 1 filed on December 20, 2012.

(21) Incorporated herein by reference to the copy of such document included as an exhibit to our Current Report on Form 8-K filed on February 28, 2013.



**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Henderson, State of Nevada on the 11th day of September, 2013.

BLUE EARTH, INC.

By: /s/ Johnny R. Thomas  
Name: Johnny R. Thomas  
Title: Chief Executive Officer  
  
(Principal Executive Officer)

Pursuant to the requirements of Section 13 or 15(d) the Exchange Act of 1934, this report has been signed by the following persons in the capacities and on the dates indicated.

| <b>Signature</b>                                | <b>Title</b>  | <b>Date</b>        |
|---|---|--------------------|
| <u>/s/ Laird Q. Cagan</u><br>Laird Q. Cagan     | Chairman of the Board   | September 11, 2013 |
| <u>/s/ Johnny R. Thomas</u><br>Johnny R. Thomas | Chief Executive Officer and Director (Principal Executive Officer)      | September 11, 2013 |
| <u>/s/ Johnny R. Thomas</u><br>Brett Woodard    | Chief Financial Officer (Principal Financial<br>and Accounting Officer) | September 11, 2013 |





**EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

| <b>Exhibit No.</b> | <b>Description</b>   |
|--------------------|--|
| 23.1               | Consent of HJ and Associates, LLC.   |
| 31.1               | Certification of the Chief Executive Officer and Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2               | Certificate of the Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.                               |
| 32.1               | Certificate of the Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley of 2002.   |
| 32.2               | Certificate of the Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley of 2002.   |

