

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

<b>IN RE:</b>	§	
	§	
<b>KLD ENERGY TECHNOLOGIES, INC.,</b>	§	<b>CASE NO. 16-10345-HCM</b>
	§	
<b>8910 Research Blvd., Bldg. B-1</b>	§	
<b>Austin, TX 78754</b>	§	<b>CHAPTER 11</b>
	§	
<b>Taxpayer Identification No.: 32033226500</b>	§	
	§	
<b>DEBTOR.</b>	§	

**MOTION OF KLD ENERGY TECHNOLOGIES, INC. FOR AUTHORITY TO  
LIQUIDATE DE MINIMUS AND/OR EXPENSED ASSETS**

**This pleading requests relief that may be adverse to your interests.**

**If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing being held.**

**A timely filed response is necessary for a hearing to be held.**

KLD Energy Technologies, Inc., the debtor-in-possession (the “Debtor”), files its Motion For Authority To Liquidate *De Minimus* And/Or Expensed Assets (“Motion”) and respectfully states the following in support thereof:

**INTRODUCTION**

1. The Debtor’s Chief Restructuring Officer has determined that various assets of bankruptcy estate are of *de minimus* value or have been fully expensed during the Debtor’s operations and currently has no utility to the Debtor’s estate. The list of items that the Debtor wishes to attempt to sell is attached as Exhibit 1. Consequently, the business decision has been that such assets should be liquidated in the most efficient manner.

2. The Debtor now seeks authority to market and liquidate such Debtor’s assets under the procedures set forth herein.

**JURISDICTION, VENUE, AND PROCEDURAL BACKGROUND**

3. The United States Bankruptcy Court for the Western District of Texas, Austin Division (the “Court”), has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. On March 25, 2016 (the “Petition Date”), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (“Bankruptcy Code”), commencing the above-captioned chapter 11 case. A detailed description of the facts and circumstances of this Chapter 11 case is set forth in greater detail in the Declaration of *Mark Wabschall in Support of Debtor’s Chapter 11 Petition and First Day Motions*, filed on March 30, 2016 [Docket No. 19].

6. The bases for relief requested herein are section 105(a) and 363(b) of the Bankruptcy Code, and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”).

7. The Debtor continues to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date of this Motion, the Office of the United States Trustee has not appointed an official committee of unsecured creditors.

**RELIEF REQUESTED**

8. By this Motion, Debtor respectfully seeks entry of an order authorizing the Debtor to liquidate assets of *de minimus* value and/or fully expensed assets of the Debtor. The assets to be liquidated are listed in Exhibit 1. Any cash proceeds of the sale of assets will be escrowed until further order of the Court. If any such assets are bartered in exchange for goods and/or

services to be provided to the Debtor, the Debtor will report such bartering without any resulting escrow.

9. The Debtor proposes that such sales will be instigated by first serving notice of any proposed sale (“Sale Notice”) upon the following parties (collectively, the “Notice Parties”): (a) the United States Trustee for the Western District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtor (on a consolidated basis); (c) counsel to the Debtor’s lenders; (d) the Internal Revenue Service; (e) any parties who have expressed written interest in purchasing the Debtor’s assets as well as any parties that the Debtor deems may be interested in the Debtor’s assets; (f) all entities known or reasonably believed to have asserted a lien, encumbrance, claim, or other interest in any of the Debtor’s assets offered for sale; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtor will serve the Sale Notice by email and first class mail. The Sale Notice will also be filed in the Court’s docket.

10. The Sale Notice will contain a list of the assets to be sold, and the price to be paid for the assets. Some assets may be sold under a consignment arrangement and the notice will set forth such arrangement, if applicable.

11. If the Debtor fails to receive any objection to the Motion, the Debtor may effectuate the proposed sale of assets.

12. If the Debtor receives an objection to the Motion, the Debtor will not effectuate the proposed sale of assets until so directed by order of the Court.

13. Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). In addition, section 105(a) of the Bankruptcy

Code provided that the “court may issue any order, process, or judgment that is necessary to carry out the provisions of” the Bankruptcy Code. 11 U.S.C. § 105(a).

14. Courts in the Fifth Circuit have granted a debtor’s request to use property of the estate outside of the ordinary course of business upon a finding that such use is supported by sound business reasons. *See, e.g., Institutional Creditors of Continental Air Lines, Inc. v. Continental Air Lines, Inc. (In re Continental Air Lines)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); *see also In re Crutcher Resources Corp.*, 72 B.R. 628, 631 (Bankr. N.D. Tex. 1987) (“A Bankruptcy Judge has considerable discretion in approving a § 363(b) sale of property of the estate other than in the ordinary course of business, but the movant must articulate some business justification for the sale.”); *In re Terrace Gardens Park Partnership*, 96 B.R. 707, 714 (Bankr. W.D. Tex. 1989). In reviewing a proposed sale of assets, a bankruptcy court should give deference to the business judgment of a debtor in possession when it deems the sale to be appropriate. *See Esposito v. Title Ins. Co. (In re Fernwood Mkts.)*, 73 B.R. 616, 621 n.2 (Bankr. E.D. Pa. 1987).

15. The assets listed in Exhibit 1 are of no use to the Debtor in its current operations and are taking up space at the Debtor’s Austin and California locations unnecessarily. Rather than simply abandoning the assets, the Debtor moves for authority to attempt to liquidate the assets.

WHEREFORE, the Debtor respectfully requests that the Court authorize the Debtor to liquidate assets of de minimus value and/or fully expensed assets of the Debtor under the notice

procedures set forth above and grant such other relief as the Court deems appropriate under the circumstances.

Dated: September 15, 2016

Respectfully submitted,

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By: /s/ Lynn Hamilton Butler

Lynn Hamilton Butler  
Texas Bar No. 03527350

**COUNSEL FOR DEBTOR**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 15, 2016, a true and correct copy of the foregoing pleading is being served via this Court's ECF notification system to all parties registered to receive such notice and on all parties listed on the Debtor's Master Service List dated September 1, 2016.

/s/ Lynn Hamilton Butler  
Lynn Hamilton Butler

## Inventory and expensed items:

Kitchen appliances: Austin
Office furniture: Austin
Unibind UniBinder 8.M
Display Stands
Paper Board Cutter
Steam Cleaner
Shop Vac
Yellow Vacuum Cleaner
Wall Clocks
Power connect
Web Smart Switch
Gigabit Switch
Dell Computers
Digital DVR
Network Attached Storage
Dell tablets
Scooter parts
20-70-00012-001 (ASSY, FET SPACER )
23-30-00025-002 (ASSY, G4 S2 CONTROLLER TRAY, W/ PEM NUTS)
23-70-00017-001 (ASSY, RED FLEXIBUS )
23-70-00023-002 (ASSY, NEGATIVE EXIT BUS BAR )
23-70-00025-001 (ASSY, PRIMARY BUS BAR )
23-70-00027-001 (ASSY, TERMINAL W/FUSE BUS BAR )
23-90-00044-001 (ASSY, INTERNAL HARNESS, CURRENT SENSE & FUSE )
23-90-00045-001 (ASSY, HARNESS, ESS CONTROL, SAMI-6R )
23-90-00052-001 (ASSY, EXTERNAL HARNESS ON BOARD, 1 BATTERY )
40-20-00007-001 (FOOT PEDAL)
40-20-00008-001 (FENDER, BRACKET)
40-40-00001-001 (KLD MARK 1101-8 MOTOR CONTROLLER, G4 S2)
40-40-00002-001 (KLD MARK 1104-8 MOTOR CONTROLLER, G4 S4)
40-50-00002-003 (BATTERY CHARGER, DQ, 48V, INTERLOCK, REMOTE LED)
40-50-00002-004 (BATTERY CHARGER, DQ, 48V, IC650 W/COMM)
41-20-00005-002 (STATOR, COATED, 0.23MM G.O.S.S., SANDED )
43-00-00011-003 (COIL, MAGNET, 67T, 16.5 AWG, MW30C, CLOCKWISE )
44-30-00024-001 (M10 CONICAL WHEEL LUG NUT)
44-30-00027-001 (AXLE TORQUE LOCK NUT)
44-50-00019-001 (EDGE SEAL, 1/16" EDGE, 13/64" BULB WIDTH RUBBER 1400MM)
44-70-00003-001 (VENT, M12 X 1.5, POLYAMIDE)
45-10-00004-002 (PCB, INTERCONNECT, STATOR BLOCK, D1166, ENLARGED)
45-16-00009-002 (FUSE STRIP, SLOWBLOW, 58V, 200A)
45-18-00004-001 (CONTACTOR, GX12FA)
45-20-00008-001 (HALL EFFECT CURRENT SENSOR)
45-30-00021-002 (MICRO-LINK ENCODER CABLE 5 POLE FEMALE, SHIELDED)
45-30-00045-002 (RECEPTICAL, MALE, 5 POLE, ENCODER, PLASTIC PLATED BRASS )

45-30-00050-001 (CIRCULAR CONNECTOR 2P PANEL MOUNT)
45-30-00051-001 (CIRCULAR CONNECTOR 2P SOCKET CABLE END)
45-30-00102-001 (CONNECTOR, CIRCULAR, 2P PANEL MOUNT)
45-30-00117-002 (CONNECTOR, HOUSING, SBS50, 2P, BLUE )
45-30-00131-001 - A01 (Multi-Con-X Plastic Connector Straight Cable Plug 03 Pin)
45-30-00153-001 (CONNECTOR, PLUG, 14 PIN, MALE, BLUE)
45-51-00001-001 (CORE PACK, 13S6, SAMSUNG)
50-00-00009-001 (BADGE)
50-00-00010-001 (VEHICLE DECAL, POWERED BY KLD ONEDRIVE)
60-50-00032-001 (SWINGARM, CAST, D1166)
60-50-00033-002 (CALIPER BRAKE MOUNT, SWINGARM, CAST, MACHINED FOR BADGE, D1166)
60-50-00033-003 (CALIPER BRAKE MOUNT, SWINGARM, CAST, ECLIMO, D1166)
60-50-00034-001 (PHASE CABLE COVER, SWINGARM, CAST, D1166)
60-50-00036-001 (BUS COVER, SWINGARM, CAST, D1166)
60-70-00033-002 (BOTTOM)
60-70-00034-001 (DIVIDER, FIRST)
60-70-00034-002 (DIVIDER, SECOND )
60-70-00035-001 (BMS TRAY )
60-70-00038-001 (BUS BAR, POSITIVE TO CONTACTOR )
60-70-00039-001 (BUS BAR, CONTACTOR TO FUSE )
60-70-00042-002 (COVER)
60-70-00045-001 (THERMAL DISTRIBUTION BAR)
60-70-00046-001 (SECONDARY THERMAL DISTRIBUTION BAR )
60-70-00047-001 (MODULE SLIDE SKIN)
60-80-00009-001 (HEAT SINK , CONTROLLER, 1104-8)
60-80-00010-001 (HEATSINK AL, G4, S2, SIDEWAYS FINS, CONTROLLER)
61-11-00001-001 (BRAKE ROTOR DRIVE SLEEVE, D1166 (Matrex))
61-11-00001-003 (BRAKE ROTOR DRIVE SLEEVE, D1166 (QJ))
61-20-00020-001 (ROTOR, CV JOINT ADAPTER)
61-60-00014-001 (REMKE PLUG, FLEX HOUSING, UNIVERSAL)
63-10-00009-002 (INSULATOR, THIN SEAL, STATOR BLOCK, D1166)
63-10-00027-001 (GASKET, SEAL, INSULATOR, STATOR BLOCK, D1166)
63-10-00037-001 (INSULATOR, WIRE GUIDE, STATOR BLOCK, CLEARANCE, D1166)
63-20-00013-001 (MAGNET HOLDER, .420" MAGNETS, D1166)
63-32-00031-001 (SENSOR HOUSING, FLEX HOUSING, D1166)
63-32-00032-001 (COVER, FLEX HOUSING, D1166)
63-40-00028-001 (CABLE CONNECTION TRAY, DETENT, D1166 (UP TO 5SB))
63-40-00028-002 (CABLE CONNECTION TRAY, DETENT, 4SB, D1166)
63-40-00030-001 (CABLE CONNECTION TRAY, DETENT, 1106 )
63-70-00084-002 (ADAPTER, FUSE SUPPORT W/ CONTACT INSERTS )
63-70-00097-002 (CRADLE, PRIMARY BUS BAR, BLACK )
63-70-00097-003 (CRADLE, PRIMARY BUS BAR, RED )
63-70-00098-002 (CRADLE CLIP, BUS BAR, BLACK )
63-70-00098-003 (CRADLE CLIP, BUS BAR, RED )
63-70-00099-001 (TERMINAL SUPPORT, BLACK W/ INSERTS )
63-70-00099-002 (TERMINAL SUPPORT, RED )
63-70-00100-001 (TERMINAL SEAL, BLACK )

63-70-00100-002 (TERMINAL SEAL, RED )
63-70-00102-001 (GAP PAD, SMALL )
63-70-00102-002 (GAP PAD, LARGE )
63-70-00108-001 (HARNESS BRIDGE, BATTERY, MODULE ZERO )
Flatscreen TVs
Dynojet 250i dynamometer
Various outdated controllers
Unused tools