**UNITED STATES BANKRUPTCY COURT**
**NORTHERN DISTRICT OF FLORIDA**
**TALLAHASSEE DIVISION**

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| In re: | Chapter 11 |
| BING ENERGY INTERNATIONAL, INC., | Case No. 16-40322-KKS |
| BING ENERGY INTERNATIONAL, LLC, | Case No. 16-40323-KKS |
| Debtors. / | |

# DISCLOSURE STATEMENT WITH RESPECT TO PLAN OF REORGANIZATION

**JUNE 7, 2017**

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**THE DEBTORS RESERVE THE RIGHT TO AMEND OR SUPPLEMENT THIS DISCLOSURE STATEMENT AT OR BEFORE THE CONFIRMATION HEARING.**

## DISCLOSURE STATEMENT WITH RESPECT TO PLAN OF REORGANIZATION

Bing Energy International, Inc. ("**Bing Inc.**") and Bing Energy International, LLC ("**Bing LLC**," with Bing Inc., the "**Debtors**"), and BEI-DIP, LLC ("**BEI**" or the "**Dip Lender**," with the Debtors, the "**Plan Proponents**") provide this Disclosure Statement to all known creditors of the Debtors in order to disclose the information deemed to be material, important, and necessary for the creditors to arrive at a reasonably informed decision in exercising their right to abstain from voting or to vote for acceptance or rejection of the Plan of Reorganization (the "**Plan**") proposed by the Debtors. A copy of the Plan accompanies this Disclosure Statement as **Exhibit A**.

Capitalized terms used, but not otherwise defined, herein have the meanings assigned to them in the Definitions section in the Plan. Whenever the words "include," "includes" or "including" are used in this Disclosure Statement, they are deemed to be followed by the words "without limitation."

This Disclosure Statement is presented to certain holders of Claims against and Interests in the Debtors in accordance with the requirements of section 1125 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "**Code**"). Section 1125 of the Code requires that a disclosure statement provide information sufficient to enable a hypothetical and reasonable investor, typical of the debtor's creditors and interest holders, to make an informed judgment whether to accept or reject a plan. This Disclosure Statement may not be relied upon for any purpose other than that described above.

**This Disclosure Statement and the Plan are an integral package, and they must be considered together for the reader to be adequately informed. This introduction is qualified**

**in its entirety by the remaining portions of this Disclosure Statement (including its Exhibits or Schedules), and this Disclosure Statement in turn is qualified in its entirety by the Plan. This Disclosure Statement contains only a summary of the Plan. You are strongly urged to review the Plan, a copy of which is provided herewith, before casting a Ballot.**

**No representations concerning the Debtors are authorized other than as set forth in this Disclosure Statement. You should not rely upon any representations or inducements made to secure your acceptance or rejection of the Plan other than as contained in this Disclosure Statement, and such additional representations and inducements should be reported to Debtors' counsel, who will in turn deliver such information to the proper authorities for such action as may be appropriate.**

**The information contained in this Disclosure Statement, including any exhibits concerning the financial condition of the Debtors, has not been subjected to an audit or independent review except as expressly set forth herein. The Plan Proponents have endeavored in good faith to be accurate in this Disclosure Statement.**

**The statements contained in this Disclosure Statement are made as of the date of this Disclosure Statement unless another time is specified. There is no guaranty that facts will not change after this Disclosure Statement was filed; and it must be assumed that some facts will indeed change from that time until the hearing on the approval of the Disclosure Statement (discussed below), and thereafter during the periods in which the Debtors or Reorganized Debtors make payments under the Plan.**

**This Disclosure Statement was prepared in accordance with section 1125 of the Code and not in accordance with federal or state securities laws or other applicable non-bankruptcy law. Entities holding or trading in or otherwise purchasing, selling or**

**transferring claims against, interests in or securities of, the debtor should evaluate this disclosure statement only in light of the purpose for which it was prepared. This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission and the Securities and Exchange Commission has not passed upon the accuracy or adequacy of the statements contained herein. Nor may this Disclosure Statement be construed to be advice on the tax, securities or other legal effects of the Plan. You should, therefore, consult with your own legal, business, financial and tax advisors as to any such matters concerning the solicitation, the Plan or the transactions contemplated thereby.**

## OVERVIEW OF CHAPTER 11

Chapter 11 comprises the chapter of the Code primarily used for business reorganization. Formulating a plan to restructure a debtor's finances forms a fundamental purpose of a case under chapter of the Code. Businesses also sometimes use chapter 11 as a means to conduct asset sales and other forms of liquidation. Regardless of whether a debtor seeks to reorganize or liquidate, a chapter 11 plan sets forth and governs the treatment and rights creditors and interest holders will receive with respect to their claims against and equity interests in a debtor's bankruptcy estate.

The Code entitles only holders of impaired claims or equity interests who receive some distribution under a proposed plan to vote to accept or reject the plan. The Code conclusively presumes that holders of unimpaired claims or equity interests under a proposed plan have accepted the plan and need not vote on it. The Claims in Classes 1, 2 and 3 of this Plan are Impaired and thus may vote either to accept or reject the Plan. The Debtor has enclosed a Ballot with this Disclosure Statement to solicit the votes of the Creditors in Classes 1, 2 and 3. Those

Creditors may vote on the Plan by completing the enclosed Ballot and mailing it to the following addresses:

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**BERGER SINGERMAN LLP**
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**Counsel for the DIP Lender**

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You should use the Ballot sent to you with this Disclosure Statement to cast your vote for or against the Plan. You may not cast Ballots or vote orally or by facsimile. **For your Ballot to be considered by the Bankruptcy Court, it must be received at the above address by 5:00 p.m. (prevailing Eastern time) by the date fixed by the Court on the accompanying scheduling order (the "Voting Deadline").** If you are a Creditor in Classes 1, 2 or 3 and you did not receive a Ballot with this Disclosure Statement, please contact:

**BERGER SINGERMAN LLP**
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A ballot that does not indicate acceptance or rejection of a plan will not be considered. An impaired class of claims accepts a plan if at least 2/3 in amount and more than 1/2 in number of the allowed claims in the class that actually vote are cast in favor of the plan. A class of interests accepts a plan if at least 2/3 in amount of the allowed interests of such class that actually vote are cast in favor of the plan. Whether or not you vote, you will be bound by the terms and treatment set forth in the Plan if the Court confirms the Plan. The Court may disallow any vote accepting or rejecting the Plan if the vote is not cast in good faith.

Once it is determined which impaired classes have accepted a plan, the bankruptcy court will determine whether the plan may be confirmed. For a plan to be confirmed, the Code requires, among other things, that the plan be proposed in "**good faith"** and comply with the other applicable provisions of chapter 11 of the Code, including a requirement that at least one class of impaired claims accept the plan, and that confirmation of the plan is not likely to be followed by the need for further financial reorganization. A bankruptcy court will confirm a plan only if it finds that all of the requirements enumerated in section 1129 of the Code have been met. The Debtors believe that the Plan satisfies all of the requirements for confirmation.

One requirement for confirmation of a plan is called the "**best interests test**." Notwithstanding acceptance of the plan by each impaired class of claims, in order to confirm a plan, if even one member of an impaired class votes to reject the plan, a bankruptcy court must determine that a plan is in the best interests of each holder of a claim or interest in such class. The best interests test requires that a bankruptcy court find that the plan provides to each member of such impaired class a recovery on account of the class member's claim or interest that has a value, as of the Effective Date of the Plan, at least equal to the value of the distribution that each such class member would have received if the debtor's assets were liquidated under chapter 7 of the Code on such date.

The Code also requires that, in order to confirm a plan, the Court must find that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization of the debtors (the "**financial feasibility test**"). For a plan to meet the financial feasibility test, the bankruptcy court must find that a debtor's estate and reorganized debtor possess the capital and should generate the other resources to meet their respective obligations under the Plan. The Plan Proponents believe that following confirmation of the Plan, the Reorganized Debtors will be able to fully perform all obligations under the Plan without any need for liquidation or further financial reorganization.

The bankruptcy court may confirm a plan notwithstanding the plan's rejection by some impaired classes, if the bankruptcy court finds that at least one impaired class of claims (not including any acceptances by "insiders" as defined in section 101(31) of the Code) has accepted the plan and that the plan satisfies certain additional conditions. This provision, found in section 1129(b) of the Code, is generally referred to as the "cramdown" provision. Pursuant to section 1129(b), the bankruptcy court may confirm a plan over the rejection by a class of secured claims

if the plan is "fair and equitable" and satisfies one of the alternative requirements of section 1129(b)(2)(A) of the Code (otherwise known as "**cramdown**"). Likewise, the bankruptcy court may confirm a plan over the rejection by a class of unsecured claims if the plan is fair and equitable and if the non-accepting claimants will receive the full value of their claims, or (even if the non-accepting claimants receive less than full value), if no class of junior priority will receive or retain anything on account of its pre-petition claims or interests.

**THESE ARE COMPLEX STATUTORY PROVISIONS, AND THE PRECEDING PARAGRAPHS ARE NOT INTENDED TO BE A COMPLETE SUMMARY OF THE LAW. IF YOU DO NOT UNDERSTAND THESE PROVISIONS, PLEASE CONSULT WITH YOUR ATTORNEY. THE PLAN PROPONENTS EXPECT THAT THEY MAY HAVE TO RELY UPON THE "CRAMDOWN" PROVISION OF SECTION 1129(b) OF THE CODE IN ORDER TO CONFIRM THE PLAN.**

The Court has set a hearing on confirmation of the Plan for _____, 2017 at _____ a.m./p.m., United States Bankruptcy Court, 110 East Park Avenue, 2nd Floor Courtroom, Tallahassee, Florida 32301. Creditors may vote on the Plan by filling out and mailing the accompanying ballot form to the Court. Your Ballot must be filed with the Court on or before _____, **2017 by 5:00 p.m. (prevailing Eastern time)**.

## I. PRELIMINARY STATEMENT AND HISTORY AND FINANCIAL CONDITION OF DEBTORS

### (1) HISTORY OF DEBTORS AND REASONS FOR FILING CHAPTER 11

#### A) Bing Inc.

Bing Inc. is a Cayman Islands corporation with its principal office in Tallahassee, Florida. Attached hereto as **Exhibit B** is a list of holders of the stock in Bing Inc. R. Dean Minardi is Bing Inc.'s CEO and sole director. Bing Inc. was created to develop a mechanism to

commercialize a breakthrough technology which provides a revolutionary self-sustaining electric power source known as Bucky Paper Fuel Cells or "BPFCs." Bing Inc. did not generate income for 2015 or 2016. Bing Inc.'s two most valuable assets are its intellectual property and equity interest in Bing LLC. Bing Inc. made an equity investment in Nantong Bing Energy Co., Ltd. ("NBE"). NBE is a company whose principal place of business is located in the Rugao Economic and Technology Zone, in Rugao, Jiangsu, PRC ("Rugao"). Rugao is part of a free trade economic zone in China, and is an economic zone in the Nantong County of China. NBE is responsible for the production of technology and products developed by Bing Inc. Rugao Special Enterprise Zone Ltd. Company ("RSEZ") owned 40% of NBE. RSEZ was created as a corporation of Rugao and is owned by Rugao. RSEZ was created pursuant to a Cooperation Agreement between Bing Inc. and Rugao, pursuant to which Rugao agreed to invest more than $6 million in NBE and provide Bing Inc. with economic incentives in exchange for Bing Inc.'s agreement to operate NBE in Rugao. **Bing Inc. submits that it owns 60% of the total equity interest in NBE, but information/confirmation on the exact amount and nature of this interest has been difficult to obtain.**

Bing Inc. initiated litigation against third parties through its Chapter 11 Case. As of July 7, 2016, the date that Bing Inc. filed its Chapter 11 Case—the Petition Date—it had no secured debt, but owed approximately $125,000.00 to non-priority unsecured creditors.

**B) <u>Bing LLC</u>**

Bing LLC is a Delaware limited liability company with its principal office in Tallahassee, Florida. Bing LLC's sole member is Bing Inc. Dean Minardi is Bing LLC's CEO. Bing LLC was created to develop a mechanism to commercialize a breakthrough technology which provides a revolutionary self-sustaining electric power source known as Bucky Paper Fuel Cells or

"BPFCs." Bing LLC did not generate income for 2016, but did generate $80,861.00 in income in 2015. Bing LLC also owns approximately 40% of EnerFuel2, LLC. Bing LLC controls EnerFuel2, LLC. Bing LLC owns other miscellaneous, personal tangible and intangible property, including Net Operating Losses between 2009-2014, and $15 Million in claims against certain insiders and/or employees for alleged theft.

**C. TECHNOLOGY AND ISSUES LEADING TO CHAPTER 11**

**Bing Inc.**

The technology behind BPFCs originally was the subject of United States patent application 12/505,070 titled Carbon Nanotube and Nanofiber Film Based Electrode Assemblies for Fuel Cells, and 61/320639, titled Catalytic Electrode with Gradient Porosity and Catalyst Density for Fuel Cells issued as Nos. 8703355 and 8415012 (collectively, the "**Patents**") The Patents were applied for by, among others, Jianping "Jim" Zheng as a professor at Florida State University ("**FSU**"), and Wei Zhu, one of Zheng's students at FSU. The technology underlying the Patents relates to the field of carbon nanotube and nanofiber film based membrane electrode assemblies for fuel cells. Essentially the Patents provide a mechanism to develop a revolutionary high-tech, light-weight hydrogen power source, out of a specialized material referred to as "Bucky Paper". The power source acts like a battery that does not store electricity. Instead, it generates power while it is being used. BPFCs create a waste product of only pure water. Accordingly, BPFCs provide a clean, renewable energy source. BPFCs by themselves are not compatible with most consumer products, such as cars, generators, or other similar devices, and cannot be used by consumers.

Bing Inc. had the infrastructure and tools necessary to develop the technology which was required to make BPFCs commercially viable. Bing Inc. entered into a licensing agreement with

FSU on April 23, 2010. The Licensing Agreement provided Bing Inc. with the right to use and develop technology to make the BPFCs usable with everyday products. Through the Licensing Agreement, Bing Inc. could experiment with the BPFCs, and develop its own technology which would enable a consumer to use them. To create a commercially viable use of BPFCs, Bing developed a type of proprietary technology for manufacturing a membrane electrode assembly ("**MEA**"). The MEA technology created by Bing Inc. uses a specialized Proton Exchange Membrane, which improves the utilization of BPFCs and effectively permits a person or entity to use BPFCs as an energy source. Bing Inc. was also involved in the creation of custom MEA technologies to suit any customer's needs. The development of customizable MEA technology allows a party to use BPFCs with almost any type of consumer product. Among others, Bing Inc. developed a generator for cell phone towers which was compatible with BPFCs through MEA technology. Bing Inc. has also been engaged and may devote substantial resources towards the development of BPFCs which are compatible with electric cars, and which can be used for mass transit. The use of a BPFC with an electric car would essentially create a self-sustaining form of electric transportation.

Bing Inc. currently owns all the intellectual property rights concerning the technology developed to use MEA technology, including the development of technology to make BPFCs compatible with consumer products. Unfortunately, Bing Inc.'s two most valuable assets (the intellectual property) and its equity interest (through its subsidiary, Bing LLC) in a company utilizing the technology and producing products in China were misappropriated. Bing Inc. has been utilizing the Chapter 11 process to restructure its operations and pursue litigation claims to recover the valuable assets that were put out of its reach and allow Bing Inc. to maximize its value for all constituents.

**Bing LLC**

The technology behind BPFCs originally was the subject of United States patent application 12/505,070 titled Carbon Nanotube and Nanofiber Film Based Electrode Assemblies for Fuel Cells, and 61/320639, titled Catalytic Electrode with Gradient Porosity and Catalyst Density for Fuel Cells, as a professor at FSU. The technology underlying the Patents relates to the field of carbon nanotube and nanofiber film based membrane electrode assemblies for fuel cells. Essentially the Patents provide a mechanism to develop a revolutionary high-tech, light-weight hydrogen power source, out of a specialized material referred to as "Bucky Paper". The power source acts like a battery that does not store electricity. Instead, it generates power while it is being used. BPFCs only create a waste product of pure water. Accordingly, BPFCs provide a clean renewable energy source. BPFCs by themselves are not compatible with most consumer products, such as cars, generators, or other similar devices, and cannot be used by consumers.

Bing Inc. had the infrastructure and tools necessary to develop the technology which was required to make BPFCs commercially viable. Bing LLC entered into a licensing agreement with FSU on April 23, 2010. The Licensing Agreement provided Bing LLC with the right to use and develop technology to make the BPFCs usable with everyday products. Through the Licensing Agreement, Bing LLC could experiment with the BPFCs, and develop its own technology which would enable a consumer to use them. To create a commercially viable use of BPFCs, Bing LLC developed a type of proprietary technology for manufacturing a MEA. The MEA technology created by Bing LLC uses a specialized Proton Exchange Membrane, which improves the utilization of BPFCs and effectively permits a person or entity to use BPFCs as an energy source. Bing LLC was also involved in the creation of custom MEA technologies to suit any customer's needs. The development of customizable MEA technology allows a party to use BPFCs with

almost any type of consumer product. Among others, Bing LLC developed a generator for cell phone towers which was compatible with BPFCs through MEA technology. Bing LLC has also been engaged in and intends to devote substantial resources towards the development of BPFCs which are compatible with electric cars, and can be used for mass transit. The use of a BPFC with an electric car would essentially create a self-sustaining form of electric transportation.

Bing LLC currently owns all the intellectual property rights concerning the technology developed to use MEA technology, including the development of technology to make BPFCs compatible with consumer products.

## D. ADDITIONAL ASSETS/BUSINESS ISSUES

### EnerFuel2 and Advent Technologies

In October 2014, Bing LLC purchased 100% of the IP, technology, and assets of EnerFuel from the then-owner VPJP, LLC, one of the Debtors' purported creditors. EnerFuel had developed a High Temperature (HT) Combined Heat and Power (CHP) system that operated with natural gas as its fuel. That system utilized a specialty HT Membrane Electrode Assembly (MEA) manufactured by BASF. The HTCHP system effectively reforms the natural gas (NG) feed stock and generates electricity and heat. The heat generated can be further utilized within a residential/small business boiler to heat a structure. Because the NG is reformed and not burned there is a significant reduction in greenhouse gas emissions. This system is economically viable wherever a traditional natural gas boiler is used but you gain the additional benefit of producing your own electricity.

In late 2013 BASF exited the HTMEA business, leaving EnerFuel without a primary component needed to create a functioning system. EnerFuel was subsequently closed by its parent company and the assets were purchased by VPJP, LLC. Those assets are now held by

EnerFuel2, LLC, which is 40.6% owned by Bing, LLC which further has full management control. There are 6 entities which each own 9.9% of EnerFuel2, LLC.

The BASF manufacturing technology, IP, and production line for the HTMEAs was purchased by Advent Technologies ("Advent"). Advent is a Greece-based company with a Boston-based engineering operation. In early 2016, prior to Bing's bankruptcy proceedings, Advent approached Bing about their desire to begin production of the EnerFuel HTCHP system. Advent had the ability to produce the BASF HTMEA but needed a customer for those. Bing LLC was not then in a position to manufacture the systems for Advent so a joint development MOU was entered into between the companies. The MOU anticipates both a royalty stream and eventual equity participation for Bing

The highlights are that Bing LLC is providing the prototypes, manufacturing drawings, IP, and technology the system. Advent is supplying the capital and manufacturing expertise to commercialize and market the system in Europe.

In addition to the EnerFuel/Advent assets described above, Bing has developed internally unique manufacturing tools and technologies for the production of Bucky Paper MEAs. Those manufacturing assets are currently stored in a secure facility. The storage was necessitated as a result of the Debtors' landlord, the Leon County Research and Development Authority, requiring that the Debtors vacate their existing premises. The value is dependent upon the use and/or disposition of tools and technologies. In liquidation, the value of the assets is minimal. In use and in connection with the Patents under the Licensing Agreement, the assets have greater value.

**Nantong Bing Interest**

As described above, Bing LLC also owns an equity interest in NBE in China. Bing LLC has possession of prototypes and pre-production fuel cell systems designed and manufactured by

NBE. There is a compelling argument to be made that another fuel cell company or competitor could quickly ramp up manufacturing of those systems for sale in China as a direct competitor to NBE. When the Bucky Paper MEA is incorporated into a system, a competitor would have a significant cost advantage over NBE. Bing is in early discussions with such competitors and anticipates beginning discussions regarding such opportunities.

The value of the Debtors' interest in NBE is unknown based upon the inability of NBE or anyone related to NBE (including the Debtor's former insiders who now work for NBE) to advise as to the status of NBE fully or the true equity interest in NBE and the value thereof.

### (2) SOURCE OF FINANCIAL INFORMATION

The source of financial information for this Disclosure Statement and Plan is from reports from the Debtors and the Debtors' CEO, R. Dean Minardi. The financial information contained herein, including the exhibits annexed to this Disclosure Statement, has not been audited.

## II. DEBTORS' OPERATION AND STRUCTURE

### (1) SYNOPSIS OF OPERATION IN CHAPTER 11

**Adversary Proceedings**

On the Petition Date, both Bing Inc. and Bing LLC filed adversary proceedings against certain third parties in connection with misappropriation of property, including BPFC Technology, belonging to the Debtors. The reference to the adversary proceeding filed by Bing LLC has been withdrawn from the Court to the United States District Court, Northern District of Florida (the "**USDC**"), Case No. 4:16-cv-498-RH-CAS (the "**USDC Case**"), [ECF No. 13 (USDC Case)], while the adversary proceeding filed by Bing Inc. remains pending before the Court, Adv. Pro. No. 16-4012-KSS (the "**Bankruptcy Adversary Case**").

Through separate Stipulations, Bing LLC's claims against Wei Zhu and Wei Zhu's counterclaims against Bing LLC in the USDC Case were dismissed with prejudice. Also, Bing

LLC's claims against Zheng in the USDC Case were dismissed with prejudice. Thus, Adversary Proceeding Nos. 16-4011 and 16-4012 are due to be closed.

Through a Stipulation, the Debtors dismissed *without prejudice* their claims (collectively, the "**Claims Dismissed Without Prejudice**") James Zhai, Yung Chen, Youngman (Quingian) Car Group Co., Ltd., and Bing Holdings, LLC, in the Bankruptcy Adversary Case in an attempt to facilitate a global settlement. Those claims are still viable claims if a settlement is not reached. The Debtors' claims against Harry Chen remain pending before the Court (the "**Remaining Bankruptcy Adversary Claim**"). [ECF No. 38 (Lead Case Docket)] As of the filing of this Disclosure Statement, no trial date has been set in the Bankruptcy Adversary Case. The Debtors have and will continue to negotiate with the dismissed defendants to negotiate a resolution. If a resolution cannot be reached, claims may be refiled by the Debtors, as applicable, up to and through Confirmation, or by the Reorganized Debtor after Confirmation.

**Other Proceedings**

By Order of the Court dated August 3, 2016, the Court authorized the Debtors' Cases to be jointly administered, denominating Bing Inc.'s Case as the "lead case." [ECF No. 25 (Lead Case Docket)].

On August 10, 2016, the United States Trustee appointed a creditor's committee in the Debtors' Cases. [ECF No. 29 (Lead Case Docket)].

By Order dated August 10, 2016, the Court granted relief from the automatic stay, 11 U.S.C. § 362(d), in favor of Wei Zhu allowing him to pursue a declaratory judgment action against Bing LLC, the purpose of which was to seek a declaration regarding the scope and validity of non-competition provisions in Mr. Zhu's Non-Disclosure and Non-Competition

Agreement with Bing LLC. The issues with Mr. Zhu have been resolved as there was a turnover of any data that had been taken and an agreement not to use Bing's Intellectual Property.

By Order of the Court dated August 29, 2016, the Court authorized the Debtors to retain Berger Singerman LLP to represent them in their Chapter 11 Cases *nunc pro tunc* to the Petition Date. [ECF No. 38 (Lead Case Docket)].

By Order dated November 2, 2016, the Court extended the exclusive period within which only the Debtors could file a Chapter 11 Plan through March 4, 2017, and solicit acceptances through May 3, 2017. [ECF No. 74 (Lead Case Docket)].

By Order of the Court dated December 19, 2016, the Court authorized the Debtors to obtain secured post-petition financing with an annual interest rate of 8% up to $160,000.00 from, and grant super-priority liens securing that financing in favor of, BEI. [ECF No. 103 (Lead Case Docket)]. As of this Disclosure Statement, BEI provided $XXX in post-petition financing to Bing Inc.

By Order dated December 21, 2016, the Court authorized a compromise between the Debtors and Leon County Research and Development Authority (the "**Authority**") which resolved a prior motion the Authority filed seeking relief from the automatic stay, 11 U.S.C. § 362(d), [ECF No. 48 (Lead Case Docket-Motion)], and provided the Authority an allowed administrative expense claim for $37,610.80 with a *pro rata* reduction if the Debtors remove all personal property (principally equipment) from certain real property (the "**Premises**") prior to February 15, 2017 at the monthly rate of $4,601.80. [ECF No. 105 (Lead Case Docket-Order)]. The Debtors anticipate removing the personal property from the Premises and storing it at a different location prior to or in connection with confirmation of the Plan.

The Plan Proponents recognize that it is in the Debtors' constituents' best interest to emerge from Chapter 11 as soon as practicable.

Other than pending and potential Litigation Claims, the Remaining Bankruptcy Adversary Claim, and the Claims Dismissed Without Prejudice, the Debtors' primary assets are their equity ownership in NBE and EnerFuel2, LLC, respectively. Besides having an interest in certain Litigation Claims, Bing LLC also owns miscellaneous tangible and intangible personal, including active NOLs for the 2009-2014 tax years. On the Effective Date, all of the foregoing Assets will be owned solely by the Reorganized Debtor, which will be owned entirely by the DIP Lender.

**(2) BRIEF SUMMARY OF THE PLAN**

The DIP Lender has obtained an exit financing facility of approximately $175,000 from Prime Meridian Bank. All or some of the members of the DIP Lender have guaranteed the exit facility. The DIP Lender will exercise its option to convert the debt it is owed by the Debtors into equity in the Reorganized Debtor and inject Cash into the Debtor's estates in an amount sufficient to satisfy all Allowed Administrative Expense Claims in full, at Confirmation, and make a 1% distribution to holders of General Unsecured Claims as of the Effective Date or as soon thereafter as practicable and a payment of 4% payable over three years. With respect to the $10,574.08 secured claim of the Tax Collector, to the extent there is collateral securing the tangible personal property taxes, the Tax Collector can levy on such collateral from and after the Effective Date; however, in the event no such collateral exists, the DIP Lender will inject sufficient Cash into the Debtors' estates in an amount sufficient to satisfy the Tax Collector's claim in full over three years from the Effective Date, without interest, or on such other terms and conditions agreed to by the Debtors and the Tax Collector. To the extent the Reorganized Debtors operate post-Confirmation, the DIP Lender may provide 100% of the funding that is or

may be necessary to support such operations. All Interests in the Debtors will be cancelled, and the DIP Lender will be the sole holder of Interests in the Reorganized Debtor, as of the Effective Date. As explained above, as of the Effective Date, the Reorganized Debtor will own all of the Debtors' Assets, including Bing Inc.'s 100% ownership interest in Bing LLC, and all of Bing LLC's Assets, including its ownership interests in Nantong Bing Energy Co., Ltd. and EnerFuel2, LLC, and NOLs for 2009-2014.

The Plan provides, generally, for the following:

(i) The payment in full of all Allowed Administrative Expense Claims and Allowed Priority Claims, if any, on the Effective Date or upon such other terms as the Debtor and the holder of each Allowed Administrative Expense Claim and Allowed Priority Claim shall agree. These Claims are estimated to be approximately $37,610.80;

(ii) Payment of the claim in full within 3 years of the Effective Date, without interest, or other terms as agreed to between the Debtor and the Tax Collector;

(iii) The unsecured Allowed Claims of governmental units for unpaid taxes, interest and assessments, if any, entitled to priority under section 507(a)(8) of the Code shall be paid in full in cash on the Effective Date or over time as provided for in the Code. The Debtor estimates these Claims to be approximately $7,544.04;

(iv) Class 1 consists of the Secured Tax Claim of the Tax Collector. To the extent there is collateral securing the Tax Collector's Secured Claim, the Tax Collector can levy on such collateral from and after the Effective Date; however, in the event no such collateral exists, the DIP Lender will inject sufficient Cash into the Debtors' estates in an amount sufficient to satisfy the Tax Collector's Secured Claim in full over three years from the Effective Date,

without interest, or on such other terms and conditions agreed to by the Debtors and the Tax Collector.

(v) Class 2 consists of Claims of Unsecured Creditors of Bing Inc. Each holder of an Allowed Class 2 Claim shall receive payment of 1% on the Effective Date or as soon thereafter as practicable and 4% payable over three (3) years. These Claims are estimated to be approximately $150,314.65. This estimate is based upon the schedules and Proofs of Claim filed to date in Bing Inc.'s Chapter 11 Case. Objections to scheduled and filed claims, if any, will be prosecuted by the Reorganized Debtor. Additionally, Class 2 shall receive 5% of the equity in the Reorganized Debtor.

(vi) Class 3 consists of Claims of Unsecured Creditors of Bing LLC. Each holder of an Allowed Class 3 Claim shall receive payment of 1% on the Effective Date or as soon thereafter as practicable and 4% payable over three (3) years. These Claims are estimated to be approximately $752,219.12. This estimate is based upon the schedules and Proofs of Claim filed to date in Bing LLC's Chapter 11 Case. Objections to scheduled and filed claims, if any, will be prosecuted by the Reorganized Debtor. Additionally, Class 3 shall receive 5% of the equity in the Reorganized Debtor.

(vii) Class 4 consists of the holders of Interests in Bing Inc. The holders of the Allowed Class 4 Interests shall have their Interests cancelled as of the Effective Date; and

(viii) Class 5 consists of the holder of Interests in Bing LLC. The holder of the Allowed Class 5 Interests shall have its Interests cancelled as of the Effective Date.

**(3) EXECUTORY CONTRACTS**

Pursuant to the Plan, any unexpired lease or executory contract not assumed by order of the Court prior to Confirmation or by the terms of the Plan and Confirmation Order are rejected pursuant to 11 U.S.C. § 365(a). Prior to Confirmation, the Debtors terminated the lease for the

premises in Tallahassee, Florida, they occupied. The FSU License shall be reinstated through a cure payment.

**(4) OBJECTIONS TO CLAIMS**

Pursuant to the Plan and local rules, the Debtors may object to any scheduled claim or Proof of Claim filed against the Debtors at least 45 days prior to the Confirmation Hearing as contemplated by Local Rule 3007-1(G). Such an objection, if any, shall preclude the consideration of any Claims as "allowed" for the purposes of timely distribution in accordance with the Plan.

**(5) PRESERVATION OF ACTIONS AND CAUSES OF ACTIONS**

From and after the Effective Date, to the extent not otherwise adjudicated or settled prior to or as a part of the Plan, all rights pursuant to sections 502, 510, 541, 544, 545, and 546 of the ; all preference claims pursuant to section 547 of the ; all fraudulent transfer claims pursuant to section 544 or 548 of the ; all claims relating to post-petition transactions under section 549 of the ; all claims recoverable under section 550 of the ; and all claims (including claims arising at common law or equity) against any person, entity, etc., on account of any debt, other claim or right in favor of the Debtors, including but not limited to the Remaining Bankruptcy Adversary Claim and Claims Dismissed Without Prejudice, are hereby preserved, retained, and assumed for enforcement by the Reorganized Debtors, who shall, at their election, have the right to prosecute or settle, to execute and enforce any judgment or settlement agreement therein, and to exercise all such avoidance powers and litigation claims.

The Reorganized Debtors intend to investigate fully in China the value of NBE and pursue in China or the U.S. all claims and rights to ownership in NBE. It will seek a full accounting and voting rights in NBE as applicable. Additionally, the Reorganized Debtor will pursue the claims asserted against James Zhai, Yung Chen, Youngman (Quingian) Car Group

Co., Ltd., and Bing Holdings, LLC, and NBE as set forth in the Claims Dismissed Without Prejudice or additional claims that may be brought.

**(6) CLAIMANTS AND IMPAIRED INTEREST HOLDERS**

Claimants entitled to vote under the Plan must affirmatively act in order for the Plan to be confirmed by the Court. According to the Plan, Classes 1, 2, and 3 are "impaired" classes within the meaning of section 1124 of the Code. These classes, accordingly, must vote to accept the Plan in order for the Plan to be confirmed without a cramdown. A Claimant who fails to vote either to accept or to reject the Plan will not be included in the calculation regarding acceptance or rejection of the Plan. As contemplated by section 1126(g) of the Code, holders of Interests in Class 4 and 5 which are being cancelled as of the Effective Date are presumed to object to the Plan and are, therefore, not entitled to vote.

A ballot to be completed by the holders of Claims is included herewith. Instructions for completing and returning the ballots are set forth thereon and should be reviewed at length. The Plan will be confirmed by the Court and made binding upon all Claimants if (a) with respect to impaired Classes of Claimants, the Plan is accepted by holders of 2/3 in amount and more than 1/2 in number of Claims in each such class voting upon the Plan. With respect to classes of Interest holders, who are presumed to object to the Plan, and Claimants if the requisite acceptances are not obtained, the Court may, nevertheless, confirm the Plan if it finds that the Plan accords fair and equitable treatment to any class rejecting it. Your attention is directed to section 1129 of the Code for details regarding the circumstances of such "cramdown" provisions.

## III. ANALYSIS OF THE PLAN VS. LIQUIDATION ANALYSIS

All payments as provided for the in the Plan shall be funded by the DIP Lender.

As with any Plan, an alternative would be a conversion of the Chapter 11 Cases to Chapter 7 Cases and subsequent liquidation of the Debtors by a duly appointed or elected trustee. In the event of liquidation under Chapter 7, the following is likely to occur:

(a) An additional tier of administrative expenses entitled to priority over general unsecured claims under section 507(a)(1) of the Code would be incurred. Such administrative expenses would include trustee's commissions and fees to the trustee's accountants, attorneys, and other professionals likely to be retained by said trustee for the purposes of liquidating the assets of the Debtors.

(b) Further claims would be asserted against the Debtors with respect to such matters as income and other taxes associated with the sale of the assets and the inability of the Debtor to fulfill outstanding, contractual commitments and other related claims.

(c) A liquidation analysis is attached as hereto as **Exhibit C**.

All indebtedness scheduled by the Debtors as not disputed, contingent, or unliquidated or any indebtedness set forth in a properly executed and filed Proof of Claim, shall be deemed an Allowed Claim unless the same is objected to, and the objection thereto is sustained by the Court.

## IV. RISK ANALYSIS

The Plan Proponents believe there is minimal risk to the creditors if the Plan is confirmed; however, in deciding how to cast your vote, you should consider the following risk factors. The risks that could occur are as follows:

**1. The Debtors fail to obtain money damages sought through prosecution of any Litigation Claims, including the Remaining Bankruptcy Adversary Claim and Claims Dismissed Without Prejudice.**

Despite the dismissal of Litigation Claims (without prejudice) against certain Defendants, and the pendency of the Remaining Bankruptcy Adversary Claim, the Plan

Proponents submit that based on the Cash to be provided by the DIP Lender in connection with Confirmation, the Plan Proponents will be able to meet all of their obligations under the Plan.

There is a risk that there is no collateral securing Tax Collector's Class 1 Claim and, to that extent, the Tax Collector's Class 1 Claim will be paid out in full, without interest, within three years of the Effective Date.

There is risk associated with pursuing claims against NBE and any litigation that would have to be pursued in China.

## V. U.S. FEDERAL INCOME TAX CONSIDERATIONS

A summary description of certain U.S. federal income tax consequences of the Plan is provided below. This description is for informational purposes only and is subject to significant uncertainties. Only the principal consequences of the Plan for the Debtors and for the holders of Claims and Interests who are entitled to vote to confirm or reject the Plan are described below. No opinion of counsel has been sought or obtained with respect to any tax consequences of the Plan, and no tax opinion is being given in this Disclosure Statement. No rulings or determinations of the Internal Revenue Service (the "**IRS**") or any other tax authorities have been obtained or sought with respect to the Plan, and the description below is not binding upon the IRS or such other authorities.

The following discussion of U.S. federal income tax consequences is based on the Internal Revenue Code of 1986, as amended (the "**Tax Code**"), regulations promulgated and proposed thereunder, and judicial decisions and administrative rulings and pronouncements of the IRS as in effect on the date hereof. Legislative, judicial, or administrative changes or interpretations enacted or promulgated in the future could alter or modify the analyses and conclusions set forth below. It cannot be predicted at this time whether any tax legislation will be enacted or, if enacted, whether any tax law changes contained therein would affect the tax

consequences to holders. Any such changes or interpretations may be retroactive and could significantly affect the U.S. federal income tax consequences discussed below.

**THIS DISCUSSION DOES NOT ADDRESS FOREIGN, STATE, OR LOCAL TAX CONSEQUENCES OF THE PLAN, NOR DOES IT PURPORT TO ADDRESS THE U.S. FEDERAL TAX CONSEQUENCES OF THE PLAN TO SPECIAL CLASSES OF TAXPAYERS. FURTHERMORE, ESTATE AND GIFT TAX ISSUES ARE NOT ADDRESSED, AND TAX CONSEQUENCES RELATING TO THE ALTERNATIVE MINIMUM TAX ARE GENERALLY NOT DISCUSSED HEREIN.**

**NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE PLAN TO ANY HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISOR REGARDING THE U.S. FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE TRANSACTIONS DESCRIBED HEREIN AND IN THE PLAN.**

Holders of Claims should generally recognize gain (or loss) to the extent the amount realized under the Plan (generally the amount of Cash received) in respect of their Claims exceeds (or is exceeded by) their respective tax bases in their Claims. The tax treatment of holders of Claims and the character and amount of income, gain, or loss recognized as a consequence of the Plan and the distributions provided for by the Plan will depend upon, among other things, (a) the nature and origin of the Claim, (b) the manner in which a holder acquired a Claim, (c) the length of time a Claim has been held, (d) whether the Claim was acquired at a discount, (e) whether the holder has taken a bad debt deduction in the current or prior years, (f) whether the holder has previously included in income accrued but unpaid interest with respect

to a Claim, (g) the method of tax accounting of a holder, and (h) whether a Claim is an installment obligation for U.S. federal income tax purposes. **Therefore, holders of Claims should consult their own tax advisors for information that may be relevant to their particular situations and circumstances and the particular tax consequence to such holders as a result thereof.**

The tax treatment of a holder of a Claim that receives distributions in different taxable years is uncertain. If such a holder treats the transaction as closed in the taxable year it first receives (or is deemed to have received) a distribution of Cash and/or other property, it should recognize gain or loss for such tax year in an amount equal to the cash and the value of other property actually (and deemed) received in such tax year (other than that received in respect of accrued interest) with respect to its Claim (other than any portion of the Claim that is attributable to accrued interest) plus the estimated value of future distributions (if any) less its tax basis in its Claim (except to the extent its Claim is for accrued interest). A holder should then subsequently recognize additional income or loss when additional property distributions are actually received in an amount equal to the Cash and/or value of such other property (other than that received in respect of accrued interest) less the holder's allocable tax basis in its Claim with respect to such subsequent distribution. A holder may have to treat a portion of any such subsequent distribution as imputed interest recognizable as ordinary income in accordance with the holder's method of tax accounting. If instead the open transaction doctrine applies as a result of the value of the subsequent distributions that a holder may receive not being ascertainable on the Effective Date, such holder should not recognize gain (except to the extent the value of the Cash and/or other property already received exceeds such holder's adjusted tax basis in its Claim (other than any Claim for accrued interest)) or loss with respect to its Claim until it receives the final distribution

thereon (which may not be until the Final Distribution Date). It is the position of the IRS that the open transaction doctrine applies only in rare and extraordinary cases. The Debtors believe that the open transaction doctrine should not apply and that holders may be entitled to take the position that on the Effective Date no value should be assigned to the right to receive any Subsequent Distributions. **Creditors are urged to consult their own tax advisors regarding the application of the open transaction doctrine and how it may apply to their particular situations, whether any gain recognition may be deferred under the installment method, whether any loss may be disallowed or deferred under the related party rules, and the tax treatment of amounts that certain Creditors may be treated as paying to other Creditors.**

Holders of Allowed Claims will be treated as receiving a payment of interest (in addition to any imputed interest as discussed in the preceding paragraph) includible in income in accordance with the holder's method of accounting for tax purposes, to the extent that any Cash and/or other property received pursuant to the Plan is attributable to accrued but unpaid interest, if any, on such Allowed Claims. The extent to which the receipt of Cash and/or other property should be attributable to accrued but unpaid interest is unclear. The Plan provides, and the Plan Proponents intend to take the position, that such Cash and/or other property distributed pursuant to the Plan will first be allocable to the principal amount of an Allowed Claim and then, to the extent necessary, to any accrued but unpaid interest thereon. Each holder should consult its own tax advisor regarding the determination of the amount of consideration received under the Plan that is attributable to interest (if any) and whether any such interest may be considered to be foreign source income. A holder generally will be entitled to recognize a loss to the extent any accrued interest was previously included in its gross income and is not paid in full.

Certain payments, including the payments of Claims pursuant to the Plan, are generally subject to information reporting by the payor to the IRS. Moreover, such reportable payments are subject to backup withholding under certain circumstances. Under the backup withholding rules, a holder of a Claim may be subject to backup withholding at the applicable tax rate with respect to distributions or payments made pursuant to the Plan, unless the holder: (a) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (b) provides a correct taxpayer identification number and certifies under penalty of perjury as to the correctness of its taxpayer identification number and certain other tax matters. Backup withholding is not an additional tax. Rather, the U.S. federal income tax liability of those subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of U.S. federal income taxes, a holder may obtain a refund of any excess amounts withheld under the backup withholding rules by timely filing the appropriate claim for refund with the IRS.

**THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES OF THE PLAN ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT WITH THEIR OWN TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.**

**CIRCULAR 230 DISCLAIMER: The IRS now requires written advice (including electronic communications) regarding one or more Federal (*i.e.*, United States) tax issues to meet certain standards. Those standards involve a detailed and careful analysis of the facts and applicable law which we expect would be time consuming and costly. We have not made and have not been asked to make that type of analysis in connection with any advice given herewith. As a result, we are required to advise you that any Federal tax advice rendered herein is not intended or written to be used and cannot be used for the purpose of avoiding penalties that may be imposed by the IRS.**

## VI. POST-CONFIRMATION STRUCTURE

Upon the Effective Date, the Plan Proponents will make disbursements pursuant to the Plan. In accordance with, and subject to, the provisions of the Plan, upon the Effective Date the Reorganized Debtors shall, at the sole and exclusive discretion of the DIP Lender or its assignee, conduct the day-to-day operations of their business. If and to the extent that the Reorganized Debtors operate after Confirmation, they will be managed by John T. Bell, P.E.

The Debtors or Reorganized Debtors will make payments under the Plan from Cash provided by the DIP Lender, and to the extent necessary, from Cash on hand, the proceeds of Litigation Claims, including the Remaining Bankruptcy Adversary Claim or the Claims Dismissed without Prejudice, and additional financing, if any.

## VII. CONFIRMATION BY CRAMDOWN

The Plan Proponents reserve the right, in the event that impaired classes reject the Plan, to seek confirmation of the Plan if the Court finds that the Plan does not discriminate unfairly and is fair and equitable with respect to each dissenting class.

The Plan is deemed fair and equitable if it provides (i) that each holder of a Secured Claim retains its lien and receives deferred cash payments totaling at least the allowed amount of its claim, of a value, as of the effective date of the Plan, of at least the value of its secured interest in the property subject to his lien, and (ii) that each holder of an Unsecured Claim

receives property of a value equal to the allowed amount of its claim, or no holder of a junior claim receives or retains any property.

## VIII. MISCELLANEOUS PROVISIONS

A. Notwithstanding any other provisions of the Plan, any Claim which is scheduled as disputed, contingent, or unliquidated or which is objected to in whole or in part on or before the date for distribution on account of such claim shall not be paid in accordance with the provisions of the Plan until such claim has become an Allowed Claim by a final Order. If allowed, the Claim shall be paid on the same terms as if there had been no dispute.

B. At any time before the Confirmation Date, the Debtors may modify the Plan, but may not modify the Plan so that the Plan, as modified, fails to meet the requirements of section 1122 and section 1123 of the Code. After the Debtors file a modification with the Bankruptcy Court, the Plan, as modified, shall become the Plan.

C. At any time after the Confirmation Date, and before Substantial Consummation of the Plan, the Debtors may modify the Plan with permission of the Court so that the Plan, as modified, meets the requirements of section 1122 and section1123 of the . The Plan, as modified under this paragraph, shall become the Plan.

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

E. The Debtors shall pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6), within ten (10) days from the entry of an order confirming this Plan for pre-confirmation periods and simultaneously provide to the United States Trustee an

appropriate affidavit indicating the cash disbursements for the relevant period. The Debtors, as Reorganized Debtors, shall further pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) for post-confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), based upon post-confirmation disbursements made by the Reorganized Debtors, until the earlier of the closing of this case by the issuance of a final decree by the Court or upon the entry of an order by the Court dismissing these Cases or converting them to another chapter under the Code, and the Reorganized Debtors shall provide to the United States Trustee upon the payment of each post-confirmation payment an appropriate affidavit indicating all the cash disbursements for the relevant period.

## IX. CONCLUSION

Under the Debtors' Plan, all Creditors of the Debtor will participate in some manner in the distributions to be made thereunder. The Plan Proponents believe that the distributions contemplated in its Plan are fair and afford all Creditors equitable treatment. ACCORDINGLY, THE PLAN PROPONENTS RECOMMEND THAT ALL CREDITORS VOTE TO ACCEPT THE PLAN.

DATED: June 7, 2017

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BING ENERGY INTERNATIONAL, LLC,

By: /s/ R. Dean Minardi
R. Dean Minardi
Their: CEO and Sole Director

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