

**THE UNITED STATES BANKRUPTCY COURT  
IN THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**IN RE:** §  
§ **CASE NO. 16-31914**  
**U.S. ENERGY MANAGEMENT, INC.** §  
§ **CHAPTER 11**  
**Debtor.** §

**DISCLOSURE STATEMENT FOR DEBTOR’S  
PLAN OF REORGANIZATION**

**I.**

**PRELIMINARY STATEMENT**

**INTRODUCTION AND PLAN OVERVIEW**

**A. PURPOSE OF DISCLOSURE STATEMENT**

Debtor U. S. Energy Management, Inc. (“Debtor”) hereby submits this Disclosure Statement in the small business Chapter 11 case for the Debtor’s Plan of Reorganization (the “Disclosure Statement”) pursuant to §1125 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§101 et seq., as amended, (the “Bankruptcy Code”), to all known creditors or persons claim in interests in property of the Debtor, as well as interest holders of Debtor. The purpose of the Disclosure Statement is to disclose that information which the Bankruptcy Court has determined is material, important and necessary for creditors of, and interest holders in, Debtor to arrive at a reasonably informed decision regarding whether they should vote for acceptance or rejection of the Debtor’s Plan of Reorganization dated September 19, 2016 (the “Plan”), as from time to time after amended or modified and presently on file with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”). A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. *Your rights may be affected. You should*

*read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.*

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case,
- How the Plan proposes to treat claims or equity interests of the type you hold (i.e., what you will receive on your claim or equity interest if the plan is confirmed),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court (the "Court") will consider when deciding whether to confirm the Plan,
- Why US Energy Management, Inc. believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation, and
- The effect of confirmation of the Plan.

After notice and a hearing on \_\_\_\_\_, 2016, the Court approved the Disclosure Statement as containing “adequate information” (as defined in §1125 of the Bankruptcy Code) of a kind, and in sufficient detail, to enable a hypothetical reasonable investor typical of the holders of claims against, or interests in, Debtor to make an informed judgment in voting to accept or reject the Plan. Approval of this Disclosure Statement by the Court however, does not constitute a recommendation to accept or reject the Plan.

This Disclosure Statement describes various transactions contemplated under the Plan which is attached hereto and incorporated by this reference for all purposes. You are urged to study the Plan in full and to consult with your counsel about the Plan and its impact upon your legal

rights. Please read this Disclosure Statement and the accompanying Plan in their entirety carefully before voting on the Plan.

**B. EXPLANATION OF CHAPTER 11 CASE**

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to Chapter 11, a debtor is authorized to reorganize its business for its own benefit and that of its creditors and interest holders. On May 12, 2016 (the “Petition Date”), Debtor filed a voluntary chapter 11 petition commencing his Chapter 11 case. Since the Petition, Debtor has remained a debtor-in-possession of his assets in accordance with the provisions of 1107 and 1108 of the Bankruptcy Code.

Formulation of a plan of reorganization is the principal purpose of a Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying claims against, and interests in, the Debtor. After a plan of reorganization has been filed, it may be accepted by holders of claims against, or interests in, the debtor. Section 1125 of the Bankruptcy Code requires full disclosure before solicitation of acceptances of a plan of reorganization. This Disclosure Statement is presented to claimants and interests holders to satisfy the requirements of 1125 of the Bankruptcy Code.

**C. CONFIRMATION PROCEDURES**

The Plan cannot be consummated unless it is confirmed by the Court. Confirmation of a Chapter 11 plan does not require that each holder of a claim against, or interest in, the debtor vote in favor of the plan of reorganization in order for it to be confirmed by the Court. A plan of reorganization, however, must be accepted by at least (i) the holders of one class of impaired claims by a majority in number and two-third in amount of those claims of such class actually voting, and

(ii) the holders of one class of interests by two thirds in amount of the allowed interests of such class actually voting.

Even if all classes of claims and interests accept a plan of reorganization may be refused by the Bankruptcy Court. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and, among other things, requires that a plan of reorganization be in the best interests of claimants and interest holders. The “best interests” test generally requires that the value to be distributed to claimants and interests holders may not be less than such parties would receive if the debtor were liquidated under Chapter 7 of the Bankruptcy Code.

The Bankruptcy Code may confirm a plan of reorganization even though less than all of the classes of claims and interests accept it. Confirmation of a plan of reorganization over the objection of one or more classes of claims or interests is generally referred to as a “cram-down.” Pursuant to 1129(b), a plan of reorganization may be confirmed by the Court over the objection of one or more class of claims and interests if it does not discriminate unfairly and it is “fair and equitable” with respect to the non-accepting class. If one or more impaired class of claims vote for the Plan is (are) not obtained, the Debtor will seek to cram-down the Plan.

Confirmation of a plan of reorganization discharges the Debtor from all of their pre-confirmation debts and liabilities except as provided in the plan of reorganization, the order of the Bankruptcy Court confirming the Plan, or 1141(d) of the Bankruptcy Code. Confirmation makes the plan of reorganization binding upon the Debtor, all claimants (including holders of claims or rights) and interest holders and other parties in interest, regardless of whether or not it has been accepted by them.

**D. PROCEDURE FOR FILING PROOF OF CLAIMS AND PROOFS OF INTEREST**

On or about May 16, 2016, the Bankruptcy Court sent all creditors of the Debtor notice of the entry of the order for relief under Chapter 11 of the Bankruptcy Code, the day and time of the first meeting of creditors and the deadline for filing proofs of claims (September 6, 2016). A creditor need not file a proof of claim if its claim is correctly set forth in the Debtor's schedules and not listed as contingent, unliquidated, or disputed. In all other cases, a proof of claim must have been filed on or prior to September 6, 2016.

**E. VOTING**

(1) Procedures

(a) Unimpaired Classes. The Debtor is not soliciting acceptances of the Plan by claimants in Class \_\_\_\_\_. Since the claims of such claimants are not impaired under the Plan, such class is deemed to have accepted the Plan.

(b) Impaired Classes. The Plan Proponents are seeking the acceptances of the Plan by claimants in Class 2-4.

Each holder of a claim may vote on the Plan by completing, dating and signing the corresponding class ballot sent to him, her, or it and filing the ballot as set forth below. If you are a holder of a disputed, contingent or unliquidated claim, you may petition the bankruptcy Court to allow your claim for voting purposes only by making a timely application to the Bankruptcy Court pursuant to Rule 3018 of the Bankruptcy Rules. You should seek the advice of your own counsel as to how to accomplish this. Each holder of a claim in Classes 2-5 and the interest holders in Class 6, may vote on the Plan by completing, dating signing and filing the Ballot as set forth below. Allowance of a claim for voting purposes does not necessarily mean that all or a portion of the claim will be allowed or disallowed for distribution purposes.

Ballots are enclosed with the Disclosure Statement sent to each claimant or interest holder eligible to vote on the Plan. For all classes, Ballots must be filed by mail with:

Reedy Macque Spigner  
Spigner & Associates, PC  
555 Republic Dr., #430  
Plano, TX 75074

**In order to be counted, Ballots must be RECEIVED at the foregoing address no later than 5:00 p.m. Central Daylight time on \_\_\_\_\_, 2016.**

(2) Acceptance

In order for there to be an acceptance of the Plan by the classes of claimants who will be voting on the Plan, the Plan must be accepted by:

(a) Of those claimants in each of Classes 2-5, claimants who (i) hold at least two-thirds in dollar amount of the claims as to which votes are cast, and (ii) constitute more than one-half in number of holders of such claims voting; and

Ballots that are signed and returned, but not expressly voted either for acceptance or rejection will be counted as acceptances.

(3) Objections to Confirmation

The Court has set \_\_\_\_\_, as the last day for filing objections to the Plan.

(4) Confirmation Hearing

The Court has set a hearing on acceptance and confirmation of the Plan for \_\_\_\_:\_\_\_\_.m. on \_\_\_\_\_, 2016 at the Earl Cabell Federal Building, Judge Barbara Houser's courtroom, 1100 Commerce, 14<sup>th</sup> Floor, Dallas, TX 75042.

**II.**

**REPRESENTATIONS**

PLEASE READ THIS DISCLOSURE STATEMENT AND THE PLAN THEIR ENTIRIETY. FOR THE CONVENIENCE OF CREDITORS, THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF THE PLAN. THIS SUMMARY DOES NOT PURPORT TO BE COMPLETE AND CREDITORS AND INTEREST HOLDERS ARE URGED TO READ THE PLAN IN ITS ENTIRETY. THE PLAN SHOULD BE READ CAREFULLY IN CONJUNCTION WITH THIS DISCLOSURE STATEMENT IN ORDER FOR CREDITORS TO FORMULATE AN OPINION AS TO THE IMPLICATIONS AND EFFECT OF THE PLAN ON EACH CREDITOR'S RIGHTS AND IN ORDER TO FORMULATE AN OPINION AS TO WHETHER TO ACCEOT THE PLAN. TO THE EXTENT THERE IS INCONSISTANCY BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PLAN CONTROLS.

UNLESS EXPRESSLY STATED, NONE OF THE DATA INCLUDED HEREIN OR APPENDED HERETO OR THE PLAN, IF ANY, HAS BEEN SUBJECT TO AUDIT. ALL INFORMATION HEREIN HAS BEEN SUPPLIED BY THE DEBTOR OR OBTAINED FROM PUBLIC RECORDS. DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT INACCURACY.

THE MATERIALS PROVIDED IN THE DISCLOSURE STATEMENT ARE INTENDED TO ASSIST YOU IN VOTING ON THE PLAN IN AN INFORMED FASHION. IF THE PLAN IS CONFIRMED, YOU WILL BE BOUND BY ITS TERMS.

THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IS NOT A SOLICITATION BY THE ATTORNEYS OR OTHER PROFESSIONALS FOR THE DEBTOR, AND THE

REPRESENTATIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND NOT OF SUCH ATTORNEY OR PROFESSIONALS EXCEPT AS MAY BE OTHERWISE INDICATED.

THE DEBTOR OR OTHERS MAY SOLICIT YOUR VOTE. THE COST OF ANY SOLICITATION BY THE DEBTOR WILL BE BORNE BY THE DEBTOR. NO OTHER ADDITIONAL COMPENSATION SHALL BE RECEIVED BY ANY PARTY FOR ANY SOLICITATION OTHER THAN AS DISCLOSED TO AND APPROVED BY THE BANKRUPTCY COURT AFTER NOTICE AND HEARING.

NO REPRESENTATIONS OR ASSURANCES CONCERNING THE DEBTOR OR THE PLAN ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THE DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE BY ANY PERSON TO SECURE YOUR VOTE WHICH ARE OTHER THAN HEREIN CONTAINED SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR.

### **III.**

#### **BACKGROUND**

##### **A. GENERAL**

The Debtor is a non-public corporation. Since 2009, the Debtor has been in the business of lighting design. US Energy Management is an energy management company established 4/2009. Debtor specializes in energy efficient lighting design and implementation services for industrial, commercial, manufacturing, warehousing, retail, office and parking garages. Debtor's designs lower electricity consumption and improve facility conditions through energy efficient lighting design and installation.



Debtor is owned and operated by Brad Hitchcock who owns a 50% share of the stock and Holly Hitchcock who owns the remaining 50% stock interest in Debtor. Debtor receives approximately \$45,000.00 in gross (net) monthly income from contracts for lighting and lighting design of commercial and residential properties.

The Debtor filed this bankruptcy to restructure the property holdings and debt into a payment schedule which will allow it to continue to operate his business.

**B. EVENTS LEADING TO BANKRUPTCY**

Creditor, JRB International and Robert Brewer obtained a judgment from a state court lawsuit for a breach of contract claim in case no. 416-04161-2015 in the 416<sup>th</sup> Judicial District Court, Collin County, Texas (“Judgment”). In attempting to collect on the judgment, a receiver was appointed. Receiver filed a writ on Debtor's bank account and seized all of the operating money in operating bank accounts pursuant to the Judgment. The interruption in Debtor’s cash flow and operational funds due to the actions of Creditor JRB International and Robert Brewer resulted in the necessity of filing for relief under the provisions of the Bankruptcy Code. Debtor was forced to file for Chapter 11 relief to enable it to continue operating its business, pay employees and vendors, and earn money. State Court judgment is presently on appeal to the 5<sup>th</sup> District Court of Appeals, Dallas, Texas.

**IV.**

**MAJOR EVENTS IN THE REORGANIZATION CASE**

The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in May 12, 2016. The filing was necessitated by seizure of all bank accounts in the name of Debtor pursuant to a writ of execution on a judgement in the State Court Case which interrupted the cash flow of Debtor to the extent that it could not continue to operate without bankruptcy

protections. The levy on the account resulted in approximately \$38,000.00 seized from Debtor's bank accounts disrupting Debtor's business, day-to-day operations, and ability to pay bills as they were due. Since the initiation of the Debtor's bankruptcy case, the Debtor has remained debtor-in-possession pursuant to §§1107 and 1108 of the Code. The meeting of creditors pursuant to Section 341 of the Bankruptcy Code was held and completed. The law firm of Spigner & Associates, P.C. was retained to act as counsel to the Debtor in the Chapter 11 Case.

There is no cash collateral and thus, no cash collateral order in place. Debtor maintains very little inventory and purchases supplies and materials for each specific job or contract. All purchases are therefore within the ordinary course of business.

This Court has approved the employment of attorney Dan E. Martins and his Law firm to prosecute the appeal of the state court judgment. An order approving employment of Mr. Martins was entered on August 26, 2016.

Debtor through his specially appointed counsel, Dan Martins has continued to proceed with the appeal of the Judgment from state court to the 5th District Court of Appeals in case no. 05-16-00505-CV pending in Dallas, Texas.

Debtor's business is increasing opportunities for contracts and additional jobs through references and contracts with Walmart and other commercial retail properties.

A review of the Debtor's monthly operating reports including the bank statements for the Debtor-in-Possession account and the account reflects that the Debtor has averaged a positive cash flow during the pendency of this case.

## V.

### **DESCRIPTION OF THE PLAN AND INFORMATION REGARDING CLAIMS**

#### **A. TREATMENT OF CLAIMS**

The Plan contemplates that the Debtor will pay all Allowed Claims in full with inter alia, (a) the IRS to receive its Allowed Claim in equal installments of principal and interest over six (6) years based on a 6.00 percent per annum interest rate, (b) Secured Creditors with Allowed Claims to be paid in accordance with their debt instrument; (c) Secured Claims to be paid over six years based on a 6.00 percent per annum interest rate, and (d) all Unsecured Allowed Claims to be paid by election of a one-time payment of \$250.00 within 180 days of the Effective Date, or 20% of Allowed Claim paid in equal quarterly payments within six years of the Effective Date or the date such claims become Allowed Claims whichever is later.

The Plan specifically contemplates use of Proceeds to satisfy in the following order, (i) unpaid Administrative Claims and Tax Claims that are or become Allowed Claims, (ii) Secured Claims to the extent they are or become Allowed Claims, (iii) Unsecured Claims that are or become Allowed Claims which will receive a pro rata share of in equal quarterly payments to be satisfied within six years of the Effective Date or the Date such claims become Allowed Claims whichever is later unless the on-time payment option is chosen. The Reorganized Debtor shall retain all Estate property, including all property of the Debtor as defined in 11 U.S.C. §541, to the extent same are assets of the Debtor's bankruptcy estate, as well as all Avoidance Actions, but shall not include any exempt property of the Debtor.

- Class 1. Administrative Claims
- Class 2. Tax Claims of IRS
- Class 3. Secured Claims of Comptroller
- Class 4. Unsecured Claims (including Rejection Claims)
- Class 5. Ad valorem tax claims

**PLEASE REFER TO THE FULL TEXT OF THE PLAN, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT “A” OR ON FILE WITH THE BANKRUPTCY COURT, IN CONNECTION WITH THE FOLLOWING PARAGRAPHS AND DEFINED TERMS. THE SUMMARY OF THE PLAN IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN ITSELF. IF ANY INCONSISTENCY EXISTS BETWEEN THIS SUMMARY AND THE PLAN, THE TERMS OF THE PLAN CONTROL.** Claims in the following classes will receive the following treatment unless the holder of an Allowed Claim consents to a different treatment.

Class 1. **Administrative Claims.** Each holder of an Allowed Administrative Claim against the Debtor shall receive on the Effective Date [1] the amount of such holder’s Allowed Administrative Claim in one Cash payment or [2] such other treatment as may be agreed upon in writing by the Debtor and such holder. Debtor estimates that allowed Administrative Claims will approximate no more than \$40,000.00.

Class 2. **Tax Claims.** Holders of unpaid 11 U.S.C. 507(a)(8) IRS Tax Claims that become Allowed Claims will receive payments of such claims payable over five years from the effective date at a fixed rate of six (6%) per annum, Debtor estimates that allowed Tax Claims should approximate \$50,195.93. The following additional provisions shall apply to the payment of the Allowed Class 2 Claim:

- If the Debtor fails to make any Plan payment, or deposits of any currently accruing employment or sales tax liability; or fails to make payment of any tax to the IRS within 10 days of the due date of such deposit or payment, or if the Debtor fails to file any required federal tax return by the due date of such return, then the IRS may notify the Debtor in writing that the

Debtor is in default of the Plan. Failure to declare a default does not constitute a waiver by the IRS of the right to declare that the Debtor is in default.

- If the Debtor does not cure the default within 14 days of such notice, that shall constitute an “IRS Default” and the entire imposed liability, together with any unpaid current liabilities, may become due and payable immediately, and the Internal Revenue Service may collect any unpaid liabilities through the administrative collection provisions of the Internal Revenue Code. The IRS shall only be required to send two notices of default, and upon the third event of default, an IRS Default will be deemed to have occurred and the IRS may proceed to collect on all amounts owed without recourse to the Bankruptcy Court and without further notice to the Debtor.

- All payments will be sent to: IRS, Attention: Mikeal Smith, 1100 Commerce Street, Mail Code 5024 DAL, Dallas, Texas 75242.

Class 3. **Secured Claims of State Comptroller** (“*Comptroller*”).

Holders of Comptroller Claims that have become Allowed Claims (“Allowed Comptroller Claims”) for business franchise and sales taxes will be paid over six years from the Effective Date in sixty (60) equal monthly installments of principal and interest, with interest to accrue annually at the rate of three percent (6%) and the first payment to begin thirty days after the effective Date of the Plan and made monthly until said claims are paid in full. So long as the Allowed Comptroller Claims are paid pursuant to the Plan, no holder of an Allowed Comptroller Claim shall proceed against any other party or entity liable or responsible for said tax obligations. The estimated amount

of Tax Claims in this class is approximately \$100,000.00.<sup>1</sup> The following additional provisions shall apply to the payment of the Allowed Class 2 Claim: None.

Class 4. **Unsecured Claims (including Rejection Claims)**. Holders of Unsecured Claims and Rejection Claims that become Allowed Claims (“Allowed Unsecured Claims”) will receive a one-time payment of \$1,000.00 within 180 days of the Effective Date, or 100% of Allowed Claim paid a pro rata share in equal quarterly payments within six years of the Effective Date or the date such claims become Allowed Claim as Creditor elects. The estimated amount of Allowed Unsecured Claims is approximately \$264,568.00.<sup>2</sup>

Class 5. **Secured Claims of Ad Valorem Taxing Authorities**. Secured Claims of Ad Valorem Taxing Authorities on the business property to the extent same become an Allowed Claim will be satisfied payable over six (6) years from the effective date at a fixed rate of six (6%) percent per annum. At the time this Disclosure Statement was prepared, all ad valorem taxes were current and paid in full.

Only “Allowed Claim” will receive a distribution under the Plan except as provided therein. An Allowed Claim means a claim against the Debtor (1) to the extent that proof of such claim was timely filed or deemed to have been timely filed, (2) to which any objection has been litigated or settled, or (3) which is allowed by a final order of the Bankruptcy Court. Distributions to holders of Allowed Claims are in full satisfaction of those allowed Claims. Except as provided in the Plan, all

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<sup>1</sup> Debtor objects to claims of the Comptroller in the amount of approximately \$616,000.00 and plan does not provide for complete payment of those claim. Debtor is presently attempting to determine the exact amount of the claims.

<sup>2</sup> Wesco Distribution estimated claim \$91,875.00; Tree Lake Energy Interests estimated claim \$120,954.00; Maxlite, Inc. estimated claim \$51,739.00; JRB International and Robert Brewer estimated claim \$134,079.00 (duplicate and disputed claim on appeal of judgment to 5<sup>th</sup> District Court of Appeals, Dallas, Texas, not included in estimated total claims for this creditor class). Additionally, the claim of Michael Bernstein as receiver in the amount of \$95554.44 is also not included at this time as it is also disputed.

Claims against the Debtor arising prior to the Confirmation Date will be discharged whether or not a proof of claim is filed or whether or not the obligation appears on debtor's Schedules.

The Debtor will reject all executory contracts including unexpired leases and executory leases other than those specifically assumed on or before sixty (60) days after the Confirmation Date.

The Plan further provides for continuing Court jurisdiction over the Plan for the following purposes:

- (i) Allowed Claims;
- (ii) Executory contracts and unexpired lease proceedings;
- (iii) Plan interpretation;
- (iv) Plan implementation;
- (v) Plan modification;
- (vi) Adjudication of controversies;
- (vii) Injunctive relief;
- (viii) Interpleader actions;
- (ix) Correction of minor defects;
- (x) Authorization of preconfirmation fees and expenses;
- (xi) Post-confirmation orders regarding Confirmation; and
- (xii) Final Decree.

**B. FINANCIAL INFORMATION**

1. Current Assets of Debtor.

Copies of the Debtor's Statements of Financial Affairs, Schedules, as amended, and the Debtor's most current operating reports are on file with the Court.

**C. INSIDER, PREFERENCE AND FRAUDULENT CONVEYANCE CLAIMS**

The Debtor has investigated their books and records and do not believe that there are any insider preference and/or fraudulent transfer actions under 11 U.S.C. 544, 547 and 548 other than potential preference claims against any creditors who receive prepetition payments that are identified in response to Question 3 of the Debtor's Statement of Financial Affairs ("SOFA") filed in this case. The Debtor or Reorganized Debtor intends to further investigate these claims and initiate such legal action deemed meritorious. It is believed however, that none of the payments identified not constitute preferential transfers.

**D. SUMMARY OF LITIGATION**

As of the date of the filing his Petition, here is no litigation that has been initiated by, or pending against the Debtor other than the Litigation.

**E. ALTERNATIVES TO PLAN**

**BECAUSE OF THE LIMITED SCOPE OF THE ABOVE DISCUSSION, EACH TAYPAYER SHOULD CONSULT HIS/HER OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES OF THE PLAN BASED ON HIS/HER SPECIFIC FACTS AND CIRCUMSTANCES.**

The Debtor believes that it is in the best interest of his creditors to accept the Plan because the amount of money to be distributed to creditors under the Plan is more than creditors would receive if Debtor's assets were liquidated by a Chapter 7 bankruptcy trustee and offers more favorable result to the estate were the case dismissed.

(1) Chapter 7 Liquidation

If Debtor's assets are liquidated by a Chapter 7 Trustee, the proceeds would first be used to satisfy secured claims if any, second to satisfy the Chapter 7 administrative priority claims, third to



satisfy Chapter 11 priority administrative claims and finally to satisfy general unsecured claims. Based on the Debtor's analysis the liquidation value of Debtor's individual assets would in no event be more than cash on hand and sale of some equipment totaling approximately \$510,00.00 (showing on schedule B) and any recoveries from the prosecution of Avoidance Actions would be insufficient to satisfy Chapter 11 and Chapter 7 administrative Priority Claims and/or Secured Claims against same. Therefore, if a Plan is not confirmed and Debtor's assets are liquidated by a Chapter 7 trustee, the only creditors to receive any distribution on their claims are likely to be administrative claimants, the IRS and/or the Comptroller.

## **VI.**

### **RISK FACTORS**

Certain risk factors are inherent in most plans of reorganization. If such plans are accepted, it is usually because the proposal represents a greater return to creditors than would be available in liquidation.

## **VII.**

### **MISCELLANEOUS PROVISIONS**

#### **A. MODIFICATION OF THE PLAN**

The Debtor may propose amendments to or modifications of the Plan at any time prior to the Confirmation Date with the approval of the Court and upon such notice to parties in interest as the court deems necessary. After the Confirmation Date, the Debtor may, with the approval of the Court and so long as it does not materially or adversely affect the interest of Claimant, remedy any defects or omissions or reconcile any inconsistencies in the Plan or in the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of the Plan.

**B. OBJECTIONS TO CLAIMS**

If an objection is not filed to a claim, then the claim is deemed to be an Allowed Claim. However, no distribution shall be made on any claim to which an objection has been filed (e.g. a “Contested Claim”). Instead, the Debtor will reserve a sufficient amount to make a distribution to any Contested Claim that ultimately becomes an Allowed Claim. For Contested Claims that become “Allowed Claims”, the Debtor shall make a distribution from the reserve<sup>3</sup> as soon as practicable after the date that claim is allowed.

Although the Debtor has not completed his analysis of the claims filed herein, the Debtor anticipates objecting to those unsecured claims which re filed in amounts that exceed the amounts the Debtor’s records of schedules reflect as owing, as well as to claims the Debtor believes are meritless. Additionally, Debtor intends to object to duplicate claims that are included among the claims filed. Finally, the Debtor anticipates objecting to any claims that were filed after the bar date for filing claims.

**C. RETENTION OF JURISDICTION**

The Plan provides for the retention of jurisdiction by the Court for a variety of matters as may be pending on the Confirmation Date or as may arise subsequent thereto. Article X of the Plan sets forth the list of matters over which the Court shall retain jurisdiction.

**D. CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

(1) Tax Aspects to Creditors Receiving Property Other than Common Stock

In general, a creditor who receives property (other than common stock) in satisfaction of such creditor’s claim generally will recognize a gain or loss on the payment in cancellation of its

claim (other than claims for accrued interest as described below) equal to the difference between the amount realized in respect of such claim and the creditor's tax basis in such claim.

(2) Tax Aspects to Creditors Receiving No Distribution

To the extent that a creditor receives no distribution pursuant to the Plan, the creditor may be entitled to deduct a loss the amount equal to the tax basis of its claim. The availability and timing of any such losses will depend in part upon the creditor's tax accounting methods for bad debts.

**E. DISCHARGE**

Debtor is a corporate entity governed by the rules as set forth in 11 U.S.C. §1141(d)(3) on completion of all Plan payments under the Plan, or as otherwise provided in 11 U.S.C. §1141(d)(5) of the Code. After Discharge and Final Decree, the Debtor, Bradley S. Kidwell Family, LP, and all property of the Estate shall be discharged and released from liability for any and all claims, debts, liabilities, and encumbrances that arose before the date of the order confirming the Plan, except as otherwise expressly provided in the Plan, or by law as the non-dischargeability of certain taxes.

**VIII.**

**INFORMATION PROVIDED HEREIN**

Except as noted herein, the factual information contained in this Disclosure Statement has been provided by Debtor. To a large extent, the information provided herein was obtained from other documents. Although the Debtor believes such information to be substantially accurate and believes that creditors and other parties in interest can reasonably rely on such information (unless

otherwise noted), the Debtor is not able to warrant or represent that the information contained herein is accurate. Financial information contained herein has not been subject to an audit.

**NO STATEMENTS AS TO THE FINANCIAL CONDITION OF BUSINESS OPERATIONS OF THE DEBTOR ARE AUTHORIZED EXCEPT AS SET FORTH IN THIS DISCLOSURE STATEMENT.**

**IX.**

**CONCLUSION**

This Disclosure Statement was approved by the Court after notice and a hearing. The Court determined that this Disclosure Statement contains information adequate to permit holders of Claims to make an informed judgment about the Plan. Such approval however, does not mean that the Court recommends either acceptance or rejection of the Plan.

**A. HEARING ON AN OBJECTION TO CONFIRMATION**

The Court will hold a hearing on Confirmation of the Plan at the time and location set forth in the Order Approving the Disclosure Statement enclosed with the Disclosure Statement. Any objections to confirmation of the plan must be in writing, filed with the Clerk of the Court, and served on the parties listed in the Order Approving the Disclosure Statement on or before the dates set forth therein.

**B. RECOMMENDATION**

THE DEBTOR BELIEVES THAT CONFIRMATION OF THE PLAN IS DESIRABLE AND IN THE BEST INTEREST OF CREDITORS. The Plan provides for an equitable distribution to all Classes of the Debtor's creditors in this case. Any alternative to confirmation of the Plan, such as a liquidation or attempts by another party-in-interest to file a plan would result in significant delays, litigation, and expenses. Moreover, the Debtor believes that the creditors will receive a greater

recovery under the Plan that that which could be achieved in Chapter 7 liquidation. FOR THESE REASONS, THE DEBTOR URGES YOU TO RETURN YOUR BALLOT ACCEPTING THE PLAN.

Respectfully submitted,

/s/ Brad Hitchcock  
U.S. Energy Management, Inc.

and

/s/ Reedy Macque Spigner  
Reedy Macque Spigner  
State Bar No. 18934800  
Denise Turnbull  
State Bar No. 24067913  
555 Republic Drive, Suite 101  
Plano, Texas 75074  
972-881-0581  
972-424-1309 FAX  
Attorneys for Debtor,  
U.S. Energy Management, Inc.

### **CERTIFICATE OF SERVICE**

I hereby certify that on or before November 10, 2016, a true and correct copy of the above and foregoing documents shall be served via electronic means if available, to the following parties, affected parties on the attached list, and all parties requesting electronic notice:

Debtor, Brad Hitchcock –via email:

A. J. Lynn, attorney for Creditor Robert Brewer and JRB International-  
via email: [Ajlynn6367@sbcglobal.net](mailto:Ajlynn6367@sbcglobal.net)

Meredyth Kippes, UST -via email: [meredyth.a.kippes@usdoj.gov](mailto:meredyth.a.kippes@usdoj.gov)

And to all others on the attached service list

/s/ Reedy Macque Spigner  
Reedy Macque Spigner

**EXHIBITS**

Exhibit A Debtor's Plan of Reorganization

Exhibit B Budget, Schedule I&J [also Cash Flow Analysis]

Exhibit C Latest Monthly operating report of Debtor

Exhibit D Chapter 11 Projections