

<p>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</p> <p>Anthony A. Friedman (SBN 201955) AAF@LNBYB.COM LEVENE, NEALE, BENDER, YOO &amp; BRILL L.L.P. 10250 Constellation Boulevard, Suite 1700 Los Angeles, California 90067 Telephone (310) 229-1234 Facsimilie (310) 229-1244</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Edward M. Wolkowitz, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
---	---------------------------

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

<p>In re: BLUE EARTH ENERGY SYSTEMS, INC.</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:15-bk-28508 BR CHAPTER: 7</p> <p style="text-align: center;"><b>NOTICE OF SALE OF ESTATE PROPERTY</b></p>
--	--

<p><b>Sale Date:</b> 10/25/2016</p>	<p><b>Time:</b> 2:00 pm</p>
<p><b>Location:</b> Courtroom 1375 located at 255 E. Temple Street, Los Angeles, California 90012</p>	

**Type of Sale:**  Public  Private      **Last date to file objections:** 10/11/2016

**Description of property to be sold:**  
See attached Notice of Trustee's Sale.

**Terms and conditions of sale:**  
See attached Notice of Trustee's Sale.

**Proposed sale price:** \$ 250,000.00

**Overbid procedure (if any):**

See attached Notice of Trustee's Sale.

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

October 25, 2016

2:00 p.m.

Courtroom 1375 located at 255 E. Temple Street, Los Angeles, California 90012

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Anthony A. Friedman (SBN 201955)

AAF@LNBYB.COM

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

10250 Constellation Boulevard, Suite 1700

Los Angeles, California 90067

Telephone (310) 229-1234

Facsimilie (310) 229-1244

Date: 10/04/2016

**EXHIBIT A**

1 Anthony A. Friedman, Esq. (CA SBN 201955  
2 **LEVENE, NEALE, BENDER, YOO & BRILL L.L.P**  
3 10250 Constellation Blvd., Suite 1700  
4 Los Angeles, California 90067  
5 Telephone: (310) 229-1234  
6 Facsimile: (310) 229-1244  
7 Email: [aaf@lnbyb.com](mailto:aaf@lnbyb.com)

8 Attorneys for Edward M. Wolkowitz,  
9 Chapter 7 Trustee

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re

BLUE EARTH ENERGY SYSTEMS, INC.,  
Debtor.

CASE NO: 2:15-bk-28508-BR

Chapter 7

**NOTICE OF CHAPTER 7 TRUSTEE'S  
MOTION FOR ENTRY OF AN ORDER: (A)  
APPROVING SALE OF PROPERTY OF THE  
ESTATE FREE AND CLEAR OF THE  
LIENS, CLAIMS AND INTERESTS OF  
ALL CREDITORS AND OTHER PERSONS  
AND ENTITIES; AND (B) APPROVING  
OVERBID PROCEDURES**

**Hearing**

Date: October 25, 2016

Time: 2:00 p.m.

Ctrm.: 1375

TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY JUDGE, THE  
DEBTOR, THE OFFICE OF THE UNITED STATES TRUSTEE, ALL CREDITORS AND  
OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE that a hearing will be held on October 25,  
2016 at 2:00 p.m., in Courtroom "1375" located at 255 E. Temple  
Street, Los Angeles, CA 90012 before the Honorable Barry Russell,  
United States Bankruptcy Judge, for the Court to consider the motion

{00425587}

1

---

NOTICE OF MOTION TO APPROVE SALE OF PROPERTY OF THE ESTATE FREE AND  
CLEAR OF THE LIENS, CLAIMS AND INTERESTS OF ALL CREDITORS AND OTHER  
PERSONS AND ENTITIES

1 ("Motion") filed by Edward M. Wolkowitz, the duly appointed Chapter  
2 7 Trustee ("Trustee") for the bankruptcy estate ("Estate") of Blue  
3 Earth Energy Systems, Inc. ("Debtor"), seeking the entry of an order  
4 of the Court:

5 (A) Pursuant to 11. U.S.C. §§363(b) and (f), authorizing the  
6 Trustee to complete a sale of the Estate's right, title and  
7 interest in U.S. Patent No. 7,647,774 B2 (the "Patent"),  
8 free and clear of the liens and interests of all creditors  
9 and other persons to proposed buyers Steve Block and Zina  
10 Block (collectively "Buyers") in in accordance with the  
11 terms set forth in the Motion, or to a successful  
12 overbidder; and

13 (B) Approving the overbid procedures described in this Motion  
14 ("Overbid Procedures").

15 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion, the  
16 Trustee seeks authority to sell the Estate's right, title, and  
17 interest in the Patent to the Buyers, for the purchase price of  
18 \$250,000.00, free and clear of liens, claims and interests, subject  
19 to overbid, and in accordance with the terms and conditions set  
20 forth in the Motion.

21 **PLEASE TAKE FURTHER NOTICE** that the Trustee conducted a public  
22 auction ("Auction") of the Patent on August 19, 2016, and at the  
23 Auction the Buyers made a bid for the Patent in the form of a  
24 \$250,000.00 credit-bid against the Buyers' secured claim against the  
25 Estate, which claim is secured by, *inter alia*, the Patent. In order  
26 to maximize the value obtained by the Estate for the Patent, Trustee  
27 and Buyers have agreed to the implementation of certain Overbid

1 Procedures in connection with the sale of the Patent. Accordingly,  
2 by the Motion, the Trustee is seeking Court approval of the Overbid  
3 Procedures described in the Motion and summarized below:

4 **1. Overbid Requirements.** Any party interested in  
5 submitting an overbid for the Patent ("Overbid") must, not  
6 later than 4:00 p.m. (Pacific time) on the date that is  
7 three (3) business days before the hearing on the Motion  
8 ("Sale Hearing"), *i.e.*, October 20, 2016 ("Overbid  
9 Deadline"), deliver such Overbid in writing to counsel for  
10 the Trustee (Anthony A. Friedman, Esq., Levene Neale,  
11 Bender, Yoo & Brill L.L.P., 1025 Constellation Blvd.,  
12 Suite 1700, Los Angeles, California 90067, Email:  
13 AAF@LNBYB.com, Facsimile: (310) 229-1244), in accordance  
14 with the requirements set forth below:

15 a. The purchase price for the Patent in any Overbid must  
16 be in the sum of at least Two Hundred Seventy-Five  
17 Thousand Dollars (\$275,000.00). Any Overbid must  
18 otherwise be on the same terms and conditions of the  
19 Buyers' Bid.

20 b. Each party submitting an Overbid must, by the Overbid  
21 Deadline: (i) deliver a deposit in the sum of ten  
22 percent (10%) of the Overbid, in the form of a  
23 cashier's check, to the Trustee, so that such deposit  
24 is actually received by the Overbid Deadline, and  
25 (ii) deliver to counsel for the Trustee proof of  
26 committed funds available to the bidder sufficient to  
27 enable such bidder to consummate the sale of the

1 Patent, which proof shall be in the form of a letter  
2 of credit, loan commitment or other form acceptable  
3 to the Trustee in the Trustee's sole discretion. In  
4 the event that (i) the bidder fails to timely make  
5 the deposit, (ii) the bidder fails to timely provide  
6 proof of committed funds, or (iii) the Trustee  
7 determines, in his sole discretion, that the proof of  
8 funds provided to Trustee by a bidder is  
9 unacceptable, the Trustee may, at his sole  
10 discretion, disqualify such bidder from participating  
11 at the Sale Hearing. In the event that the Trustee  
12 exercises his discretion and disqualifies a bidder  
13 from participating at the Sale Hearing, the Deposit  
14 made by such bidder (if any) shall be returned to the  
15 bidder.

16 **2. Bidding At Sale Hearing.** If at least one qualified  
17 bidder who has submitted an Overbid appears at the Sale  
18 Hearing, the Trustee shall designate what he determines,  
19 in his reasonable judgment, to be the best and highest  
20 Overbid received for the Patent to be the leading bid at  
21 the Sale Hearing. Thereafter, the Trustee shall solicit  
22 better and higher bids for the Patent, in bidding  
23 increments of at least Five Thousand Dollars (\$5,000),  
24 from the qualified bidders participating in the Sale  
25 Hearing (including the Buyers, if they choose to  
26 participate) until the best and highest bid for the Patent  
27 has been determined by the Trustee. Buyers shall have the

1 right to credit-bid at the Sale Hearing in an amount up to  
2 and including Five Hundred Thousand Dollars (\$500,000.00).  
3 The qualified bidder who submits the second best/highest  
4 bid for the Patent at the Auction shall be designated as  
5 the backup bidder. The best and highest bidder as  
6 selected by the Trustee shall have three (3) business days  
7 following the entry of a Court order granting this Motion  
8 to remit to the Trustee the balance of the winning bid,  
9 provided however that if the best and highest bid is in  
10 the form of a credit-bid, then the sale of the Patent  
11 shall be deemed complete upon the entry of a Court order  
12 granting this motion.

13 **3. Backup Bidder.** In the event that Buyers or the  
14 successful overbidder cannot timely complete the purchase  
15 of the Patent, the deposit shall be non-refundable and  
16 treated as proceeds of the sale of the Patent, and the  
17 Trustee shall be authorized to proceed with the sale of  
18 the Patent to the backup bidder without further notice,  
19 hearing, or order of this Court.

20 **PLEASE TAKE FURTHER NOTICE** that the Buyers, who have a properly  
21 perfected lien against all assets of the Debtor, have agreed to  
22 reserve a portion of the sale proceeds generated by the sale of the  
23 Patent for the Estate as follows:

- 24 a. Three-percent (3%) of the purchase price of the sale of  
25 the Patent would be paid to the Trustee on behalf of the  
26 Estate if the Patent were sold to a third-party; or  
27 b. Twelve Thousand Dollars (\$12,000.00) would be paid to the

1 Trustee on behalf of the Estate if the Patent were  
2 purchased by Buyers for a credit bid for \$250,000.00 or  
3 less; or

4 c. Fifteen Thousand Dollars (\$15,000.00) would be paid to the  
5 Trustee on behalf of the Estate if the Patent were  
6 purchased by Buyers for a credit bid of more than  
7 \$250,000.00.

8 **PLEASE TAKE FURTHER NOTICE** that, if you are interested in  
9 bidding for the Patent at the Sale Hearing, and you would like  
10 additional information regarding the Patent and/or the bidding  
11 process, you may contact counsel for the Trustee: Anthony A.  
12 Friedman, Esq., LNBYB, 10250 Constellation Boulevard, Suite 1700,  
13 Los Angeles, CA 90067, Telephone: (310) 229-1234, Facsimile: (310)  
14 226-1244, Email: AAF@LNBYB.com.

15 **PLEASE TAKE FURTHER NOTICE** that, based upon information  
16 contained in the Debtor's Schedules, the Claims Register in this  
17 case, and lien searches conducted in Delaware, California and with  
18 the United States Patent & Trademark Office, and upon information  
19 provided to the Trustee and his counsel by the Buyers, the Buyers  
20 have a secured claim against the Estate in the sum of \$554,065.07 as  
21 of December 3, 2015, which claim is secured by a lien against all  
22 the assets of the Debtor ("Buyers' Lien"). As set forth in the  
23 Motion, the Trustee proposes to pay the proceeds of the sale of the  
24 Patent, less any amounts reserved for the Estate as set forth above,  
25 to the Buyers to reduce the amount of the Buyers' Lien and claim  
26 against the Estate. The Trustee is not aware of any other properly  
27 perfected liens, or claims or interests asserted against the Patent

28 {00425587}

1 other than the Buyers' Lien. The Trustee is aware of purported  
2 secured claims which do not appear to have been perfected, as set  
3 forth in detail in the Motion.

4 **PLEASE TAKE FURTHER NOTICE** that the Motion is based upon 11  
5 U.S.C. §363, Bankruptcy Rules 2002 and 6004, and Local Bankruptcy  
6 Rules 2002 and 6004-1, the accompanying Memorandum of Points and  
7 Authorities, the Declaration of Edward M. Wolkowitz and the  
8 Declaration of Steven Block submitted in support of the Motion, the  
9 entire record of the Debtor's bankruptcy case, the statements,  
10 arguments, and representations of counsel to be made at the hearing  
11 on the Motion, and any other evidence properly presented to the  
12 Court at, or prior to, the hearing on the Motion.

13 **PLEASE TAKE FURTHER NOTICE** that complete copies of the Motion  
14 and the documents submitted in support thereof will be provided upon  
15 written request to Anthony A. Friedman, Esq., LNBYB, 10250  
16 Constellation Boulevard, Suite 1700, Los Angeles, California 90067,  
17 Telephone: (310) 229-1234, Facsimile: (310) 229-1244, Email:  
18 AAF@LNBYB.com.

19 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy  
20 Rule 9013-1(f), any interested party that wishes to oppose the  
21 relief requested in the Motion must, not later than fourteen (14)  
22 days prior to the scheduled hearing date set forth above, file with  
23 the Clerk of the Bankruptcy Court and serve upon counsel for the  
24 Trustee (whose name and address are set forth on the upper left-hand  
25 corner of the first page of this Notice) and the Office of the  
26 United States Trustee, "[a] complete written statement of all  
27 reasons in opposition thereto ..., declarations and copies of all

28 {00425587}

7

1 evidence on which the responding party intends to rely, and any  
2 responding memorandum of points and authorities."

3 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy  
4 Rule 9013-1(h), the failure to file and serve a timely opposition to  
5 the Motion may be deemed by the Court to constitute consent to the  
6 relief requested in the Motion.

7 **WHEREFORE**, the Trustee respectfully requests that the Court  
8 enter an Order:

9 1. Finding that the notice given by the Trustee in connection  
10 with the sale of the Patent and the hearing on the Motion is  
11 adequate, sufficient, proper, and complies with all applicable  
12 provisions of the Bankruptcy Code and Federal Rules of Bankruptcy  
13 Procedure;

14 2. Granting the Motion in its entirety;

15 3. Approving the Overbid Procedures;

16 4. Authorizing the Trustee to sell the Patent to the Buyers  
17 (or to a successful overbidder), free and clear of all liens, claims  
18 and interests, pursuant to the terms set forth in the Motion;

19 5. Finding that the Buyer (or a successful overbidder) is a  
20 good faith buyer entitled to all of the protections afforded by  
21 Section 363(m) of the Bankruptcy Code;

22 6. Authorizing the Trustee to execute and deliver any and all  
23 documents that may be reasonably necessary to consummate the sale of  
24 the Patent; and

25 7. Granting such other and further relief as may be necessary  
26 or appropriate under the circumstances.

1 Dated: October 4, 2016

**EDWARD M. WOLKOWITZ, CHAPTER 7 TRUSTEE**

2  
3 By:     /s/Anthony A. Friedman

ANTHONY A. FRIEDMAN

4 LEVENE, NEALE, BENDER, YOO & BRILL  
L.L.P.

5 Attorneys for Edward M. Wolkowitz,  
Chapter 7 Trustee

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

### PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 4, 2016**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Bradley E Brook bbrook@brooklaw.com, paulo@brooklaw.com;brookecfmail@gmail.com
- Anthony A Friedman aaf@lnbyb.com
- Christopher L Frost cfrost@eisnerlaw.com, tperez@eisnerlaw.com;edempsey@eisnerlaw.com;bdahlberg@eisnerlaw.com
- Scott C Timpe stimpe@mbnlawyers.com, scott.timpe@gmail.com;aacosta@mbnlawyers.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Edward M Wolkowitz (TR) emwtrustee@lnrb.com, ewolkowitz@ecf.epiqsystems.com

**2. SERVED BY UNITED STATES MAIL:** On **October 4, 2016**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Barry Russell  
United States Bankruptcy Court  
Roybal Federal Building  
255 E. Temple Street, Suite 1660  
Los Angeles, CA 90012

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 4, 2016**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

<b>October 4, 2016</b>	Lisa Masse	/s/ Lisa Masse
<i>Date</i>	<i>Type Name</i>	<i>Signature</i>