

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
)
PHILOS GLOBAL TECHNOLOGIES,) Case No. 17-37543
INC.,)
) Honorable Donald R. Cassling
)
Debtor/Debtor-in-Possession) Chapter 11
)

DEBTOR'S DISCLOSURE STATEMENT

Philos Global Technologies, Inc., Debtor/Debtor-in-Possession herein ("Debtor"), by and through its attorney, submits this Disclosure Statement ("Disclosure Statement") pursuant to Section 1125 of the Bankruptcy Code and in conjunction with their Plan of Reorganization ("Plan")¹. The Plan has been filed and will be disseminated to creditors and other parties in interest with this Disclosure Statement.

INTRODUCTION

The Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on December 19, 2017 ("Petition Date"). The Debtor is operating its business and managing its financial affairs as Debtor in Possession pursuant to Sections 1101, 1107 and 1108 of the Bankruptcy Code. The Debtor is in the business of providing tool and die surface treatments to its clientele. No trustee, examiner or committee of unsecured creditors has been appointed to serve in this Chapter 11 Case. The Debtor is the proponent of the Plan. The Plan

¹Capitalized terms not defined in this Disclosure Statement shall have the meanings ascribed to them in the Plan.

provides for distributions to the holders of Allowed Claims from funds realized from existing cash deposits and the Debtor's future earnings. The Debtor filed its Plan on August 31, 2018.

SUMMARY OF TREATMENT OF CLAIMS UNDER THE PLAN

The Plan has one (1) category of Administrative Expense Claims, one (1) Class of Priority Tax Claims, one (1) Class of Secured Creditors, and two (2) Classes of Unsecured Creditors. These Claims and the treatment thereof under the Plan consist of the following:²

Administrative Claims	To be paid at confirmation, in the ordinary course of business or by agreement.
<u>Class 1: Priority Tax Claims</u>	The Allowed amount of Priority Claims shall be paid in full in sixty (60) monthly payments from the Petition Date, with interest at the rate of 5.00% per annum, commencing thirty (30) days after the Effective Date. The total amount of Priority Claims is \$136,770.47, and the monthly payment is \$3,150.00.
<u>Class 2: Secured Claim of Internal Revenue Service ("IRS")</u>	The Allowed Amount of IRS' Secured Claim in the amount of \$109,032.75, with interest at the rate of 5.00% per annum, will be paid in monthly installments in sixty (60) monthly payments from the Petition Date. The monthly payment is \$2,511.00.
<u>Class 3: Unsecured Claim of Itasca Bank & Trust Co. ("Itasca")</u> (See the Plan for details as to the Debtor's intent to file an objection to Itasca's claim. The treatment of the claim described herein is in the event the Debtor's objection is denied.)	The Allowed Amount of Itasca's Unsecured Claim in the amount of \$416,211.57, will be repaid in the amount of twenty-seven (27%) percent of the Unsecured Claim, without interest, in sixty (60) monthly payments, commencing thirty (30) days after the Effective Date. The total amount to be paid is \$112,377.12, and the monthly payment is

²This chart is intended to provide the information required by Rule 3016-1 of the Local Bankruptcy Rules of this Court.

<u>Class 4: Unsecured Claims of general unsecured creditors (including the unsecured claims of IRS and IDR)</u>	\$1,872.95.
(See the Plan for details as to the Debtor's intent to file an objection to Itasca's claim and the treatment of Class 4 claims in the event the Court sustains the objection to Itasca's claim.)	The Allowed Amount of the Unsecured Claims of general unsecured creditors (including the unsecured claims of IRS and IDR) will be repaid, pro rata, in the amount of twenty-seven (27%) percent of the Allowed Unsecured Claims, without interest, in sixty (60) monthly payments, commencing thirty (30) days after the Effective Date. The total amount of estimated Allowed Unsecured Claims (including the unsecured claims of IRS and IDR) is \$148,456.52. Accordingly, the Class 4 creditors will receive, pro-rata, a total of \$40,083.26. The monthly payment is \$668.05.

Administrative Claims are provided for in Article IV, Section 4.1 of the Plan, are unimpaired under the Plan and consist of Allowed Claims comprised of fees and expenses of Debtor's Counsel retained pursuant to an Order entered by the Bankruptcy Court. These fees and expenses are projected as follows:

<u>Professional</u>	<u>Amount</u>³
Joel A. Schechter, Law Offices of Joel A. Schechter	\$7,500.00

The amounts projected to professionals holding Allowed Administrative Claims are in addition to amounts previously paid as a pre-petition retainer to Debtor's Counsel. The retainer previously paid to Debtor's Counsel was as follows:

<u>Professional</u>	<u>Amount Previously Paid</u>	<u>Basis for Prior Payment</u>
Joel A. Schechter, Law Offices of Joel A.	\$10,000	Pre-Petition Retainer

³This amount is merely the Debtor's estimate and is, therefore, subject to change. Furthermore, in projecting this amount, the Debtor does not expect a contested Confirmation hearing. In the event of a contested Confirmation hearing, Administrative Claims of professionals will significantly increase.

Schechter

No professional shall be paid unless and until the Bankruptcy Court has entered appropriate Orders allowing the compensation and reimbursement of expenses requested by such professionals.

Also included in this category of Administrative Claims are post-petition payables. Under the Plan, post-petition payables will be paid in the ordinary course of business pursuant to the credit terms existing at the time the Claim was incurred.

Other than post-petition payables, all Administrative Claims, to the extent allowed, will be paid in full in cash on the Effective Date or as soon as practicable thereafter (and in the case of professionals, after allowance by the Bankruptcy Court) or as agreed to by the holder of each Allowed Administrative Claim. The source of funds for payment of such Administrative Claims will be the cash resources of the Debtor or such other cash as may be generated by the Debtor from the operation of its financial affairs in the ordinary course.

Priority Tax Claims

Class 1 consists of the allowed claims of the Internal Revenue Service (“IRS”), Illinois Department of Revenue (“IDR”) and Illinois Department of Employment Security (“IDES”) and any other federal, state or local taxing authority, other than real estate taxes, which are entitled to priority under Section 507(a)(8) of the Bankruptcy Code (“Priority Claims”). The Priority Claims shall be paid in full, with interest at the rate of 5.00% per annum, in monthly payments over sixty (60) months from the Petition Date, beginning thirty (30) days after the Effective Date. This Class is impaired under the Plan. The approximate amount of the Priority Claims are \$136,770.47 (\$103,028.23 to IRS, \$32,148.95 to IDR and \$1,593.29 to IDES). The monthly payment required to retire this debt is \$3,150.00.

The Allowed Secured Claim of IRS

On various dates, the IRS recorded notices of liens in the county in which the Debtor does business. These recordings vest the IRS with liens on the Debtor's assets. The scheduled value of the Debtor's assets total \$428,240.14 which exceeds the amount of the Allowed Secured Claim. In full satisfaction, settlement, release, and discharge of and in exchange for the Allowed Secured Claim in Class 2, IRS shall receive the amount of \$109,032.75, plus interest at 5.00% per annum, in monthly payments of \$2,511.00, over sixty (60) months from the Petition Date, beginning thirty (30) days after the Effective Date. This Class is impaired under the Plan.

The Allowed Unsecured Claim of Itasca

Itasca filed its proof of claim in the amount of \$416,211.57. The Debtor disputes the claim and intends to file its objection.

The alleged claim arises out of a judgment entered in the Circuit Court of Cook County, IL against 110 Carpenter, LLC, Philos Technologies, Inc. and Bongsub Samuel Ko in the amount of \$354,053.48, on January 6, 2016. Thereafter, on April 4, 2017, Itasca filed its complaint to pierce the corporate veil and alleges that the Debtor is liable to Itasca for the amount of the judgment obtained against Philos Technologies, Inc. For purposes of this Plan and subject to the adjudication by the Court of the Debtor's objection to Itasca's claim, if the Court denies the Debtor's objection, in full satisfaction, settlement, release, and discharge of and in exchange for the Allowed Unsecured Claim in Class 3, Itasca will be paid twenty-seven (27%) of the allowed unsecured claim, or \$112,377.12, without interest, in monthly payments of \$1,872.95, over a period of sixty (60) months, commencing thirty (30) days after the Effective Date. This Class is impaired under the Plan.

General Unsecured Creditors

Class 4 consists of the Allowed Unsecured Claims, including the unsecured claims of IRS and IDR, but excluding Itasca. In full satisfaction, settlement, release, and discharge of and in exchange for the Allowed Claims in Class 4, these Claims shall be paid, pro-rata, in the amount of twenty-seven (27%) percent of the Allowed Unsecured Claims, without interest, in sixty (60) monthly payments, commencing thirty (30) days after the Effective Date. The total amount of estimated Allowed Unsecured Claims (including the unsecured claims of IRS and IDR) is \$148,456.52. Accordingly, the Class 4 creditors will receive, pro-rata, a total of \$40,083.26. The monthly payment is \$668.05. In the event the Court sustains the Debtor's objection to Itasca's claim set forth in Class 3, then the Allowed Unsecured Claims in Class 4 will be paid 100% of the Allowed Claims, plus interest at the rate of 3.25% per annum. In that event, the monthly payment will be \$2,684.00.

PURPOSE OF DISCLOSURE STATEMENT

This Disclosure Statement is provided to all of the known holders of Claims against the Debtor who are entitled to vote their acceptance or rejection of the Plan. This Disclosure Statement is disseminated in connection with the solicitation of acceptances of the Plan filed by the Debtor. The purpose of this Disclosure Statement is to provide such information as would enable a hypothetical, reasonable investor, typical of the holder of Claims which are impaired under the Plan, to make an informed judgment about the Plan.

The information contained in this Disclosure Statement has been submitted by the Debtor unless specifically stated to be from other sources. No representations concerning the Debtor or this Plan, other than those set forth in this Disclosure Statement, have been authorized by the

Debtor. The Debtor believes that all of the information contained in this Disclosure Statement is accurate. However, the Debtor is unable to warrant that there are no inaccuracies.

Under the Bankruptcy Code, a Class of Claims is considered to have accepted the Plan if both a majority in number and two-thirds (2/3) of the dollar amount of those actually voting vote to accept the Plan. The Claims of those who do not vote are not counted in determining whether the requisite statutory majority in number and dollar amount have voted for acceptance. Acceptance by the statutory majority will bind the minority who dissent and those who fail to vote.

HISTORY AND BACKGROUND

The Debtor was incorporated in the state of Illinois on January 17, 2014. Bongsub Samuel Ko is the 100% shareholder of the Debtor. The Debtor is engaged in the business of providing tool and die surface treatments for its clientele. The Debtor operates out of the real property commonly known as 1011 Commerce Court, Buffalo Grove, IL 60089. The Debtor fell behind in payment of income and payroll tax obligations to the IRS and IDR. The IRS filed notices of tax liens and served levies on the Debtor's bank accounts and the Debtor's accounts receivable. The service of the levies by the IRS prompted the filing of the Chapter 11 Case in order to invoke the automatic stay and cause the IRS to release the levies.

POST-PETITION ACTIVITIES

The Debtor has remained in possession of its assets and continues to operate its business and manage its financial affairs pursuant to 11 U.S.C. §§1107 and 1108.

On February 20, 2018, the Court entered an order authorizing the Debtor to employ counsel and entered an order setting April 27, 2018, as the bar date for filing proofs of claim.

On April 10, 2018, the Court entered an order authorizing the Debtor to assume the unexpired lease of nonresidential real property commonly known as 1101 Commerce Court, Buffalo Grove, IL 60089.

On June 26, 2018, the Court entered an order extending the time for the Debtor to file its Plan and Disclosure Statement to and including August 31, 2018.

The Debtor has filed monthly operating reports and paid any requisite fees due the U.S. Trustee. A summary of the Debtor's monthly operating reports during the Chapter 11 case is attached hereto and made a part hereof as **Exhibit A**.

OTHER ASPECTS OF THE PLAN

Management of the Debtor will remain unchanged after Confirmation. Bongsub Samuel Ko shall be the disbursing agent charged with making the payments required under the Plan to the holders of Allowed Claims.

Upon Confirmation of the Plan, the Debtor shall be re-vested with its assets, subject only to the terms and conditions of the Plan. The Debtor shall be entitled to continue to operate and manage its financial affairs without further Order of the Bankruptcy Court, except as hereinafter set forth. Payments to creditors pursuant to the Plan will be made from existing cash deposits and from funds from post-petition earnings. Notwithstanding Confirmation, an injunction under Section 362 and 524 of the Bankruptcy Code shall remain in effect to prevent any party from foreclosing its lien or security interest or otherwise enforcing its Claims against the Debtor and its assets in this bankruptcy case except as authorized in the Plan. Such injunction shall not affect any secured creditor's right to seek modification of the stay to foreclose upon any security interest provided in the Plan in the event of any post-Confirmation default under the Plan. This

injunction will remain in effect until all distributions under the Plan have been made and the Debtor has been discharged.

The Plan is self-executing. The Debtor shall not be required to execute any newly created documents to effectuate the terms of the Plan. Upon payment as required by the Plan, any liens supporting such Claims shall be deemed released and discharged. The Debtor will continue making quarterly payments to the U.S. Trustee until the Case is converted, dismissed or closed.

All executory contracts and unexpired leases which exist between the Debtor and any other party, whether such executory contract be in writing or oral, which has not been previously assumed, shall be rejected upon Confirmation of the Plan. The Debtor knows of no such executory contracts or unexpired leases other than the lease which was assumed pursuant to order of Court.

The Bankruptcy Court shall retain jurisdiction for certain specified purposes. Any distribution under the Plan that remains unclaimed sixty (60) days after the distribution is made will become property of the Debtor, and will not be recouped in subsequent distributions. The Debtor will have the right to make any distribution to creditors earlier than required by the Plan.

The provisions of the Plan shall bind all creditors and parties in interest. Except as expressly provided in the Plan or the Bankruptcy Code, no interest or penalties accruing on or after November 29, 2017, shall be paid on any Claim nor shall any creditor claiming any such interest or penalty be entitled to have its Claim for interest or penalty allowed for payment.

To the extent necessary, pursuant to Section 1129(b) of the Bankruptcy Code, the Debtors intend to request that the Bankruptcy Court confirm the Plan if all applicable requirements of Section 1129(a) of the Bankruptcy Code, other than Section 1129(a)(8), are met.

If necessary to obtain Confirmation of the Plan pursuant to Section 1129(b)(2)(B) of the Bankruptcy Code, a sale of the Shareholder's Interest will occur. The sale will be advertised in the Chicago Sun-Times. The Debtor expressly reserves the right to amend this Plan.

LIQUIDATION ANALYSIS

Failure of the Debtor to obtain Confirmation of the Plan could result in a dismissal of the Case or a conversion to a case under Chapter 7 of the Bankruptcy Code. Under the Plan, all creditors are being paid more than such creditors would receive in a Chapter 7 liquidation.

A liquidation analysis is attached hereto and made a part hereof as **Exhibit B**, demonstrating value to the unsecured creditors less than what is being proposed under the Plan.

In the event of a forced liquidation, any proceeds realized from the liquidation of the Debtor's assets would first be used to pay the costs of collection, which for purposes of this discussion, the Debtor has estimated to be an amount equal to ten (10%) percent of the gross collection proceeds. Once the costs of collection have been paid, Secured, Administrative and Priority Tax Claims would be paid. Only after making the above disbursements of liquidation proceeds could any distribution be made to general unsecured creditors.

IMPLEMENTATION OF THE PLAN

As discussed throughout this Disclosure Statement, distributions under the Plan shall be made from cash deposits existing at the time of Confirmation and from proceeds realized from the Debtor's post-petition earnings.

FEASIBILITY AND FAIRNESS OF PLAN

Attached to this Disclosure Statement as **Exhibit C** are the Debtor's income tax returns for the years 2015 and 2016. The purpose of this **Exhibit** is to provide creditors with information concerning the Debtor's past income and ability to make the payments required under the Plan.

Attached to this Disclosure Statement as **Exhibit D** are financial projections pertaining to the Debtor's projected post-petition earnings for the five (5) years following Confirmation of the Plan. The purpose of this **Exhibit** is to provide creditors with projected financial information concerning the Debtor's ability to make the payments required under the Plan. These projections were prepared by the Debtor. The projections represent reasonable calculations based on expected post-petition earnings.

The Debtor believes that the Plan represents an opportunity for the holders of Allowed Claims to receive substantially more than such claimants would receive in a forced liquidation.

RECOMMENDATION

The Debtor strongly recommends that those persons entitled to vote, vote to accept the Plan.

Respectfully submitted,

Philos Global Technologies, Inc.,
Debtor/Debtor-in-Possession

By: /s/ Joel A. Schechter
Its Attorney

Joel A. Schechter
Attorney No. 03122099
LAW OFFICES OF JOEL A. SCHECHTER
53 W. Jackson Blvd., Suite 1522
Chicago, Illinois 60604
(312) 332-0267