

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Chapter 11

In re:

**EKD REALTY LLC and  
AMADEUS 140 LLC,**

Case No.: 16-11957 and  
16-11960 (SCC)  
(Jointly Administered)

Debtors.

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**AMENDED DISCLOSURE STATEMENT FOR  
AMENDED JOINT PLAN OF REORGANIZATION OF EKD REALTY LLC AND AMADEUS 140 LLC**

**THIS DISCLOSURE STATEMENT IS BEING SUBMITTED TO THE  
BANKRUPTCY COURT FOR FINAL APPROVAL ON DECEMBER 28, 2016 AT  
10:00 A.M. IMMEDIATELY PRIOR TO THE HEARING ON CONFIRMATION OF  
THE JOINT PLAN OF REORGANIZATION OF EKD REALTY LLC AND  
AMADEUS 140 LLC.**

**ROBINSON BROG LEINWAND GREENE  
GENOVESE & GLUCK P.C.**  
Attorneys for the Debtors  
875 Third Avenue, 9<sup>th</sup> Fl.  
New York, New York 10022  
Tel. No.: 212-603-6300

**A. Mitchell Greene, Esq.**

**Dated:** New York, New York  
November 23, 2016

## DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ALL CREDITORS AND HOLDERS OF EQUITY INTERESTS SHOULD READ THIS DISCLOSURE STATEMENT AND ALL EXHIBITS HERETO, INCLUDING THE PLAN, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE DISCLOSURE STATEMENT AND THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. THE TRANSMISSION OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF. AFTER THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL BE MATERIALLY ACCURATE, AND (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NONBANKRUPTCY LAW. THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS WITH "ADEQUATE INFORMATION" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THEY CAN MAKE AN INFORMED JUDGMENT ABOUT THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, AS A STIPULATION OR AS A WAIVER, BUT, RATHER, AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE LIQUIDATION OR THE PLAN ON HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTOR.

## **SUMMARY**

A glossary of terms frequently used in this disclosure statement, is set forth in Article 1 of the amended plan of reorganization filed with the Bankruptcy Court.

The Debtors, **EKD Realty LLC (“EKD”) and Amadeus 140 LLC (“Amadeus”)**, (each a “Debtor,” and together the “Debtors”), has filed its *Amended Joint Plan of Reorganization of EKD Realty LLC and Amadeus 140 LLC* dated November 21, 2016 (the “Plan”), with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). This *Amended Disclosure Statement for Amended Joint Plan of Reorganization of EKD Realty LLC and Amadeus 140 LLC* (the “Disclosure Statement”) has been approved by the Bankruptcy Court for use in connection with the solicitation of acceptances of the Plan from holders of Claims against the Debtors pursuant to section 1125 of title 11 of the United States Code (the “Bankruptcy Code”).

In the Debtors’ opinion, the treatment of claims under the Plan provides a greater recovery for Creditors than that which is likely to be achieved under other alternatives for the reorganization or liquidation of the Debtors.

**Accordingly, the Debtors believe that Confirmation of the Plan is in the best interests of Creditors, and recommends that you vote to accept the Plan.**

## **THE PLAN**

The Plan provides for two means of reorganization. The first is (i) paying Nautilus \$5,396,166.14 plus additional legal fees on account of the EKD Secured Claim and \$3,596,645.86 plus additional legal fees on account of the Amadeus Secured Claim by January 15, 2017, (ii) paying the Other Secured Claims the full amount of their Allowed Claims in Cash; (iii) paying Allowed Unsecured Claims 10% of their Allowed Claims; and (iv) the current Interest Holders to contribute an additional \$75,000 fund distributions under the Plan. Additionally Interest Holders will personally guarantee all Administrative Claims.

The second is, if the Debtors cannot pay Nautilus, \$5,396.166.14 on account of the EKD Secured Claim and \$3,596,645.86 on account of the Amadeus Secured Claim, then the Debtors shall put the EKD Property up for sale pursuant to mutually agreeable bidding procedures. The sale proceeds will be utilized to fund EKD’s creditor distributions on account of their Allowed Claims in accordance with the priorities established by the Bankruptcy Code. If there is a distribution to Holders of Interest, the Holders of Interests will utilize those funds towards Amadeus’s reorganization. Within 30 days of closing on the EKD Property. if there is a shortfall with respect to paying the amount of the Amadeus Secured Claim, then Amadeus shall either refinance any shortfall or sell the Amadeus Property, so that Nautilus shall be paid \$3,596,645.86 with interest accruing at 18%. If the shortfall is refinanced, then Allowed Unsecured Creditors shall be paid 10% of their Allowed Unsecured Claim Holders of Interests in Amadeus will have already contributed their share of sale proceeds from the EKD Property to

Amadeus in return for retaining their Interests in Amadeus. If the Amadeus Property is sold, then the sale proceeds will be utilized to fund Amadeus' creditor distributions on account of their Allowed Claims in accordance with the priorities established by the Bankruptcy Code.

It is in the experience of Debtors' management and thus the Debtors believe that this proposal is feasible.

The Plan complies with section 1129(b) of the Bankruptcy Code, in that Nautilus as the holder of a secured claim against Amadeus and EKD, will retain its respective liens against Amadeus and EKD and receive the value of its claim, while holders of secured and priority claims will be paid, holders of unsecured claims will be paid the full amount of their Allowed Claims over time, and the Debtors' current equity holders will contribute new money into the Debtors.

The table below provides a summary of the classification and treatment of Claims under the Plan. The figures set forth in the table below represent the Debtors' best estimate of the aggregate amount of Claims in the Case. These estimates are based on an analysis of the Schedules filed by the Debtors, the Proofs of Claims filed by Creditors, and certain other documents of public record. There can be no assurance that Claims will be allowed by the Bankruptcy Court in the amounts set forth below. The aggregate amount of Allowed Claims may be significantly lowered from the amounts set forth below as the result of objections to claims which may be brought by the Debtors or through stipulations which may be negotiated with various creditors.

**EKD**

<b>Class and Estimated Amount</b>	<b>Type of Claim or Equity Interest</b>	<b>Summary of Treatment</b>
\$0.00	Administrative Claims (excluding Claims for professional compensation and reimbursement and Administrative Tax Claims, but including post-petition ordinary course liabilities)	<b>Non-Voting.</b> Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of the (x) EKD Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the Debtor and the Holder of such Claim; <i>provided, however,</i> that any Administrative Claim incurred by the Debtor in the ordinary course of its business shall be paid in

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		full in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto.
\$ 0.00	Administrative Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the EKD Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between EKD and such Governmental Units on or before the Confirmation Date.
Approximately \$55,635 (through November 18, 2016) <sup>1</sup>	Administrative Claims for Professional Compensation and Reimbursement <sup>2</sup>	<b>Non-Voting.</b> Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final application for approval of its Professional Fees no later than the Administrative Bar Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim.
\$0.00	Priority Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, and except as may be otherwise mutually agreed in writing between the Debtor and such Governmental Units, all Priority Tax Claims shall be paid by the Disbursing Agent in Cash in full on the EKD Effective Date.
Class A1 \$0.00	Priority Non-Tax Claims	<b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive on the EKD Effective

<sup>1</sup> Robinson Brog Leinwand Greene Genovese & Gluck, P.C., as counsel to the Debtor, shall defer payments on account of its Administrative Claim with respect to EKD until payment is made to Holders of Claims and Interests against the Debtors are first satisfied.

<sup>2</sup> Any agreement with respect to the waiver and/or modification of fees will be disclosed to the Court and the Office of the United States Trustee.

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		Date, or as soon as practicable after such Claim becomes an Allowed Claim, payment from the Disbursing Agent, (i) in Cash, in the full amount of its Priority Non-Tax Claim, or (ii) as may be otherwise agreed in writing between the Debtor and the Holder of such Priority Non-Tax Claim.
Class A2 Estimated \$ \$5,481,731.01 (based on filed proof of claim as of October 21, 2016)	EKD Secured Claim	<p><b>Impaired.</b> In full satisfaction, release and discharge of the EKD Secured Claim, the Holder of the EKD Secured Claim:</p> <p>(a) shall receive by January 15, 2017, Cash in the amount of \$5,396.166.14 plus additional legal fees; or</p> <p>(b) if the Debtors cannot pay the EKD Secured Claim by January 15, 2017, then EKD shall market the EKD Property for sale using a broker that is mutually agreed to and pursuant to bidding procedures, attached hereto as <b>Exhibit A</b>, and the EKD Secured Claim shall continue to accrue interest at a rate of 18% per annum till closing.</p> <p>If EKD or the Derderians default on any of their obligations contained herein, Nautilus may settle an order to appoint a trustee and/or plan administrator on notice for 7 business days (the “Cure Period”). Neither EKD nor the Derderians shall object to the appointment of a trustee and/or plan administrator, except to contest the existence of a default. If a trustee and/or plan administrator is appointed, then the EKD Secured Claim will be in default and Nautilus shall be entitled to interest at the default rate of 24% per annum.</p> <p>The Derderians shall vacate the EKD Property and the apartment they currently reside in shall be vacant by January 14, 2017, however, the Derderians may request a two-week extension of such deadline. Failure to vacate by January 14,</p>

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		2017 shall be a default under this article. The Plan Administrator shall be entitled to entry of a writ of assistance from the Court and/or a warrant of eviction from the New York State Court.
Class A3 Estimated: \$33,674.00	Other Secured Claims	<b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Other Secured Claims, each Holder of an Other Secured Claim shall receive, on the EKD Effective Date, or as soon as practicable after such Other Secured Claim becomes an Allowed Claim, (i) the payment of such Holder's Allowed Class 3 Other Secured Claim in full, in Cash, or (ii) such other treatment as to which the Debtor and each Holder of such Other Secured Claim shall have agreed-upon in writing.
Class A4 \$514,879.00 in scheduled/filed claims.	Unsecured Claims	<b>Impaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, the Holder of the Allowed Unsecured Claims against EKD will receive, in full satisfaction, settlement, release and discharge of the Class 4 Allowed Unsecured Claims shall receive:  (a) if the EKD Secured Claim is paid by January 15, 2017, 10% of their Allowed Unsecured Claim 60 days after the EKD Effective Date; or  (b) if the EKD Secured Claim is not paid by January 15, 2017 and the EKD Property is sold at Auction, the Holders of Unsecured Claims shall receive on the EKD Effective Date, their pro rata share of the EKD Property Sales Proceeds, after payment in full plus interest at the federal judgment rate to all senior creditors.
Class A5	Allowed Interests	<b>Unimpaired.</b> Upon the EKD Effective Date,  (a) if the EKD Secured Claim is paid by January 15, 2017, the Interest Holders shall retain their Interest in EKD in consideration for: (1) the

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		<p>funding of the Contribution Amount due hereunder, and (2) the guaranty by the Interest Holder of the fees of the Court-retained professionals in this case, after such fees are approved by the Court; or</p> <p>(b) if the EKD Secured Claim is not paid by January 15, 2017 and the EKD Property is sold at Auction, the Interest Holders shall receive on the EKD Effective Date, their pro rata share of the EKD Property Sales Proceeds, after payment in full plus interest at federal judgment rate to all senior creditors, which shall be contributed towards funding payments to be made by Amadeus. All Interests in EKD shall be canceled and of no force and effect.</p>

**AMADEUS**

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
\$0.00	Administrative Claims (excluding Claims for professional compensation and reimbursement and Administrative Tax Claims, but including post-petition ordinary course liabilities)	<p><b>Non-Voting.</b> Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of the (x) Amadeus Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the Debtor and the Holder of such Claim; <i>provided, however,</i> that any Administrative Claim incurred by the Debtor in the ordinary course of its business shall be paid in full in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating</p>



Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		thereto.
\$ 0.00	Administrative Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the Amadeus Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between Amadeus and such Governmental Units on or before the Confirmation Date.
Approximately \$18,672.00 (through November 18, 2016	Administrative Claims for Professional Compensation and Reimbursement <sup>3</sup>	<b>Non-Voting.</b> Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final application for approval of its Professional Fees no later than the Administrative Bar Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim.
\$49,279,55	Priority Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, and except as may be otherwise mutually agreed in writing between Amadeus and such Governmental Units, all Priority Tax Claims shall be paid by the Disbursing Agent in Cash in full on the Amadeus Effective Date.
Class B1 \$0.00	Priority Non-Tax Claims	<b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive on the Amadeus Effective Date, or as soon as practicable after such Claim becomes an Allowed Claim, payment from the Disbursing Agent, (i) in Cash, in the full amount of its Priority Non-Tax Claim, or (ii) as may be

<sup>3</sup> Any agreement with respect to the waiver and/or modification of fees will be disclosed to the Court and the Office of the United States Trustee.

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		otherwise agreed in writing between Amadeus and the Holder of such Priority Non-Tax Claim.
Class B2 \$3,657,870.17 (based on filed proof of claim as of October 21, 2016)	Amadeus Secured Claim	<p><b>Impaired.</b> In full satisfaction, release and discharge of the Amadeus Secured Claim, the Holder of the Amadeus Secured Claim:</p> <p>(a) shall receive by January 15, 2017, Cash in the amount of \$3,596,645.86 plus additional legal fees; or</p> <p>(b) if the Debtors cannot pay the Amadeus Secured Claim by January 15, 2017, and the EKD Property is sold as set forth in the Plan, then within 30 days of the closing of the EKD Property, Amadeus shall provide for a combination of the following:</p> <p style="padding-left: 40px;">(i) the Interest Holders of EKD shall contribute their pro rata share of the EKD Sales Proceeds to pay the Amadeus Secured Claim in full; or</p> <p style="padding-left: 40px;">(ii) if the Interest Holders pro rata share of the EKD Sales Proceeds is insufficient to pay the Amadeus Secured Claim in full then Amadeus shall obtain financing to pay the difference between the remaining EKD Sales Proceeds and the Amadeus Secured Claim; or</p> <p style="padding-left: 40px;">(iii) if the Interest Holders pro rata share of the EKD Sales Proceeds is insufficient to pay the Amadeus Secured Claim in full, Amadeus shall market the Amadeus Property for sale using a broker chosen by Nautilus pursuant to bidding procedures attached hereto as <b>Exhibit A</b>. The Amadeus Secured claim shall continue to accrue interest at a rate of 18% per annum till closing.</p> <p>If Amadeus defaults on any of its obligations contained herein, Nautilus may settle an order to</p>

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		<p>appoint a trustee and/or plan administrator on notice for 7 business days (the “Cure Period”). Amadeus shall not object to the appointment of a trustee and/or plan administrator, except to contest the existence of a default. If a trustee and/or plan administrator is appointed, then the Amadeus Secured Claim will be in default and Nautilus shall be entitled to interest at the default rate of 24% per annum.</p>
<p>Class B3 Estimated: \$0.00</p>	<p>Other Secured Claims</p>	<p><b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Other Secured Claims, each Holder of an Other Secured Claim shall receive, on the Amadeus Effective Date, or as soon as practicable after such Other Secured Claim becomes an Allowed Claim, (i) the payment of such Holder’s Allowed Class 3 Other Secured Claim in full, in Cash, or (ii) such other treatment as to which the Debtor and each Holder of such Other Secured Claim shall have agreed-upon in writing.</p>
<p>Class B4 \$257,424 in scheduled/filed claims.</p>	<p>Unsecured Claims</p>	<p><b>Impaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, the Holder of the Allowed Unsecured Claims against Amadeus will receive, in full satisfaction, settlement, release and discharge of the Class 4 Allowed Unsecured Claims shall receive:</p> <p>(a) if the EKD Secured Claim is paid by January 15, 2017, 10% of their Allowed Unsecured Claim 60 days after the Amadeus Effective Date; or</p> <p>(b) if the Amadeus Secured Claim is not paid by January 15, 2017 then Allowed Holders of Unsecured Claims Against Amadeus shall receive:</p> <p style="padding-left: 40px;">(i) if the Amadeus Secured Claim is paid in full either through payment of the remaining EKD Sales Proceeds or through refinancing of the</p>

Class and Estimated Amount	Type of Claim or Equity Interest	Summary of Treatment
		<p>Amadeus Property, 10% of their Allowed Unsecured Claim 60 days after the Amadeus Effective Date; or</p> <p>(ii) if the Amadeus Property is sold at auction, Holders of Allowed Unsecured Claims shall receive on the Amadeus Effective Date, their pro rata share of the Amadeus Property Sales Proceeds, after payment in full plus interest at the federal judgment rate to all senior creditors.</p>
Class B5	Allowed Interests	<p><b>Unimpaired.</b> Upon the Amadeus Effective Date,</p> <p>(a) if the Amadeus Secured Claim is paid by January 15, 2017, the Interest Holders shall retain their Interest in EKD in consideration for: (1) the funding of the Contribution Amount due hereunder, and (2) the guaranty by the Interest Holder of the fees of the Court-retained professionals in this case, after such fees are approved by the Court; or</p> <p>(b) if the Amadeus Secured Claim is not paid by January 15, 2017, the Interest Holder in Amadeus shall receive:</p> <p>(i) . if the Allowed Secured Claim is paid in full either through payment of the remaining EKD Sales Proceeds or through refinancing of the Amadeus Property, the Interest Holder shall retain its Interest through its contribution of the remaining EKD Sales Proceeds; or</p> <p>(ii) if the Amadeus Property is sold at auction, then the Interest Holder shall receive his pro rata share of the Amadeus Sales Proceeds after payment in full plus interest at the federal judgment rate to all senior creditors.. All Interests in Amadeus shall be canceled and of no force and effect.</p>

## CONFIRMATION OF THE PLAN

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan, on December 28, 2016 at 10:00 a.m., Eastern Standard Time, in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to Confirmation of the Plan be filed and served on or before December 21, 2016 at 5:00 p.m., in the manner described under “ACCEPTANCE AND CONFIRMATION -- Confirmation Hearing.”

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. The Debtors intend to seek Confirmation of the Plan at the Confirmation Hearing. In the event that any impaired Class of Claims does not accept the Plan, the Debtors may seek a “cram down” Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. **The Debtors believe that the Plan satisfies all applicable requirements of section 1129(a) and section 1129(b) of the Bankruptcy Code.** See “ACCEPTANCE AND CONFIRMATION -- Requirements for Confirmation” for a description of such requirements.

With the entry of the Confirmation Order, pursuant to section 1141(d) of the Bankruptcy Code, except as otherwise provided in the Plan, the distributions provided for in the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims against the Debtors or any of their assets or properties, including any Claim accruing after the Petition Date and before the Confirmation Date. As of the EKD Effective Date and Amadeus Effective Date, as it applies to such Claim, all holders of Claims shall be precluded from asserting any Claim against the Debtors or their assets or properties or other interests in the Debtors based on any transaction or other activity of any kind that occurred before the Confirmation Date except as otherwise provided in the Plan. Confirmation makes the Plan binding upon the Debtors, all Creditors and other parties regardless of whether they have accepted the Plan.

## VOTING INSTRUCTIONS — SUMMARY

The following discussion summarizes more detailed voting instructions set forth in the section of this Disclosure Statement entitled “VOTING INSTRUCTIONS.” If you have any questions regarding the timing or manner of casting your ballot, please refer to the “VOTING INSTRUCTIONS” section of this Disclosure Statement and the instructions contained on the ballot that you received with this Disclosure Statement.

**General.** The Debtors have sent to all of their known Creditors who are in Classes impaired under the Plan a ballot with voting instructions and a copy of this Disclosure Statement. Creditors may refer to the above chart to determine whether they are impaired and entitled to vote on the Plan. Creditors should read the ballot carefully and follow the voting

instructions. Creditors should only use the official ballot that accompanies this Disclosure Statement.

The Plan can be confirmed by the Bankruptcy Court and thereby made binding on you if it is accepted by (a) the holders of two-thirds in amount and more than one-half in number of claims in each class who actually vote on the Plan. In the event the requisite acceptances are not obtained, the Bankruptcy Court may nevertheless confirm the Plan if (i) the Bankruptcy Court finds that the Plan accords fair and equitable treatment, and does not discriminate unfairly, with respect to the class rejecting it and (ii) at least one impaired class of creditors excluding insiders has accepted the Plan. See “ACCEPTANCE AND CONFIRMATION -- Requirements for Confirmation” and “EFFECT OF CONFIRMATION.”

**As the preceding paragraph makes evident, a successful reorganization depends upon the receipt of a sufficient number of votes in support of the Plan. YOUR VOTE IS THEREFORE EXTREMELY IMPORTANT. Creditors should exercise their right to vote to accept or reject the Plan.**

**Voting Multiple Claims and Interests.** A single form of ballot is provided for each Class of Claims. Any Person who holds Claims in more than one Class is required to vote separately with respect to each Class in which such Person holds Claims. However, any Person who holds more than one Claim in one particular Class will be deemed to hold only a single Claim in such Class in the aggregate amount of all Allowed Claims in such Class held by such Person. Thus each Person need complete only one ballot for each Class.

**Deadline for Returning Ballots.** The Bankruptcy Court has directed that, to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received by the Debtors, no later than 5:00 p.m., Eastern Time, on December 21, 2016 at the following address:

**Robinson Brog Leinwand Greene Genovese & Gluck P.C.**  
875 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10022  
**Attention: Robert M. Sasloff, Esq.**

**Voting Questions.** If you have any questions regarding the provisions or requirements for voting to accept the Plan or require assistance in completing your ballot, you may contact Robert M. Sasloff, Esq. at (212) 603-6329.

#### **NOTICE TO HOLDERS OF CLAIMS AND INTERESTS**

This Disclosure Statement and the accompanying ballots are being furnished by the Debtors to the Debtors’ known Creditors pursuant to section 1125(b) of the Bankruptcy Code in connection with a solicitation of acceptances of a plan of reorganization by the Debtors. The

Plan is filed with the Bankruptcy Court and is incorporated herein by reference. Parties in interest may view the Plan on the Internet at <http://www.nysb.uscourts.gov>.<sup>4</sup>

The purpose of this Disclosure Statement is to enable you, as a Creditor whose Claim is in a Class impaired under the Plan, to make an informed decision in exercising your right to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTORS. THE STATEMENTS AND OPINIONS SET FORTH HEREIN ARE THOSE OF THE DEBTORS, AND NO OTHER PARTY HAS ANY RESPONSIBILITY WITH RESPECT THERETO.**

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN PROPOSED BY THE DEBTOR. PLEASE READ THIS DOCUMENT WITH CARE.**

**THE PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY ANY BANKRUPTCY COURT, THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE FAIRNESS OR MERITS OF THE PLAN OR UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.**

The historical information concerning the Debtors has been prepared using the Debtors' books and records and certain filings made with the Bankruptcy Court. The estimates of Claims set forth herein may vary from the final amounts of Claims allowed by the Bankruptcy Court. While every effort has been made to ensure the accuracy of all such information, except as noted in the Disclosure Statement, the information presented herein is unaudited and has not been examined, reviewed or compiled by the Debtors' independent public accountants.

This Disclosure Statement contains a summary of certain provisions of the Plan and the transactions contemplated thereunder, and may contain descriptions of certain other related documents, if any. While the Debtors believe that these summaries are fair and accurate, such summaries are qualified to the extent that they do not set forth the entire text of such documents. Reference is made to the Plan and the documents referred to herein and therein, if any, for a complete statement of the terms and provisions thereof. In the event of any inconsistency between the terms of the Plan and this Disclosure Statement, the terms of the Plan

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<sup>4</sup> A password is necessary for access to view documents on the Internet.

shall be controlling. In reviewing the Plan and this Disclosure Statement, the reader should give special attention to “RISK FACTORS.” No statements or information concerning the Debtor or its future business operations, results of operations or financial condition, are authorized by the Debtors other than as set forth in this Disclosure Statement, the Plan and the exhibits hereto.

The statements contained in this Disclosure Statement are made as of the date hereof unless another time is specified herein. The delivery of this Disclosure Statement shall not create, under any circumstances, an implication that there has been no change in the facts set forth herein since the date hereof.

This Disclosure Statement is intended for the sole use of Holders of Claims and Interest to make an informed decision about the Plan. Each holder of a Claim and Interest should review this Disclosure Statement, the Plan and all exhibits hereto before casting a ballot. Holders of Claims and Interest are urged to consult with their own legal and financial advisors.

No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. No Person has been authorized to use or promulgate any information concerning the Debtors or their businesses or the Plan, other than the information contained in this Disclosure Statement and the exhibits hereto. You should not rely on any information relating to the Debtor or its business or the Plan other than that contained in this Disclosure Statement and the exhibits hereto.

#### **RECOMMENDATION**

In the Debtors’ opinion, the treatment of Creditors under the Plan provides a greater recovery than is likely to be achieved under any other alternatives, including liquidation under Chapter 7. See “ALTERNATIVES TO THE PLAN.” In particular, the Debtors believe that in a Chapter 7 liquidation, with respect to Amadeus, administrative costs will be greater, and depending upon the ultimate determination of the amount of Nautilus’ Amadeus Secured Claim, Unsecured Creditors will receive a lesser distribution on account of their Claims as opposed to under the Plan. With respect to EKD, administrative costs will also be greater, and depending upon the ultimate determination of the amount of Nautilus’ EKD Secured Claim, there would not be enough funds to pay any claims other than administrative claims and a partial payment to Nautilus. Further, the Debtors believe that the value of any distribution in a chapter 7 liquidation case will be discounted by the litigation and delays which will precede any such distribution.

**THE DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND THE INTEREST HOLDER AND URGES EACH CREDITOR AND INTEREST HOLDER ENTITLED TO VOTE TO ACCEPT THE PLAN.**

#### **EVENTS LEADING TO CHAPTER 11**

Amadeus owns a vacant apartment building located at 140 E. 37<sup>th</sup> Street, New



York, New York, which is in the process of being rehabilitated and EKD operates an apartment building located at 316 2nd Avenue, New York, New York.

Nautilus holds secured claims against both the Amadeus Property and the EKD Property. In August of 2015, Nautilus initiated foreclosure proceedings against both Amadeus and EKD alleging that the Debtors' both defaulted on their respective loan obligations.

Accordingly, to stay the pending foreclosure actions and reorganize its debt obligations, both Amadeus and EKD filed for chapter 11 relief on the Petition Date.

### **SIGNIFICANT EVENTS IN THE CHAPTER 11 CASE**

On July 8, 2016, the Petition Date, the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York. The chapter 11 cases of Amadeus and EKD are jointly administered pursuant to an order entered on August 4, 2016.

The following discussion is intended to highlight some of the more significant events which have occurred during the pendency of the Debtors' cases.

### **RETENTION OF PROFESSIONALS**

Section 327(a) of the Bankruptcy Code provides that a debtor, with the court's approval, may employ one or more accountants or other professional persons that do not hold or represent an interest adverse to the estate and that are disinterested persons to represent or assist the debtor in carrying out its duties under the Bankruptcy Code. 11 U.S.C. § 327(a).

On September 12, 2016, the Debtors sought authority from the Bankruptcy Court to retain the law firm of Robinson Brog Leinwand Greene Genovese & Gluck P.C., as their counsel. The application was granted pursuant to an order signed on September 16, 2016.

### **BAR DATE**

In accordance with the requirements of section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, the Debtors have filed their Schedules of assets and liabilities, including schedules of all of its known creditors and the amounts and priorities of the Claims the Debtors believe are owed to such creditors. Pursuant to section 501 of the Bankruptcy Code, any creditor may file a Proof of Claim and, unless disputed, such filed Proof of Claim supersedes the amount and priority set forth in the Debtors' schedules. By order of the Bankruptcy Court dated September 16, 2016, October 24, 2016 was set as the last day for creditors to file Proofs of Claim in the Debtors' Chapter 11 cases.

There can be no assurance that the Allowed Claims as determined by the Bankruptcy Court will be in the amounts and priorities stated in the Schedules filed by the Debtors or the Proofs of Claim filed by the Creditors.

#### **CASH COLLATERAL**

On September 7, 2016, EKD filed a motion for usage of cash collateral.<sup>5</sup> On October 26, 2016, the Court held a hearing regarding EKD's usage of cash collateral. Nautilus previously filed an objection to EKD's usage of cash collateral and based on EKD's admission that it had used cash collateral without Court authority or Nautilus's permission, the Court directed the Office of the United States Trustee to appoint a chapter 11 trustee.

To avoid the appointment of a chapter 11 trustee, the Debtors and Nautilus agreed to their treatment as set forth in the Plan and Disclosure Statement.

#### **OPERATING REPORTS**

Pursuant to the requirements of the Office of the United States Trustee for the Southern District of New York, the Debtors intend to prepare and file monthly operating reports with the Bankruptcy Court. Copies of such reports may be obtained (i) from the Bankruptcy Court during normal business hours, (ii) upon written request made to counsel for the Debtor, or (iii) from the Bankruptcy Court's Electronic Case Filing System ("ECF")<sup>6</sup> which may be accessed at the Bankruptcy Court's Internet website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

#### **FILING OF THE PLAN**

In order to be in compliance with 11 U.S.C. § 362(d)(3), the Debtors filed their Plan with the Court on October 6, 2016.

On November 22, 2016 the Debtors filed their amended Plan.

#### **SUMMARY OF THE PLAN**

The following summary of the terms of the Plan is qualified in its entirety by reference to the provisions of the Plan, a copy of which is filed with the Clerk of the Bankruptcy Court and which is incorporated herein by reference.

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<sup>5</sup> The Amadeus Property is currently being renovated and does not generate any income so there is no cash collateral.

<sup>6</sup> Filing documents on the ECF requires a password which an attorney may obtain by contacting the Bankruptcy Court's technical assistance department, Monday through Friday, 9:00 a.m. to 4:00 p.m.

## CLASSIFICATION OF CLAIMS AND INTERESTS

Classification of claims is governed, in part, by sections 1122 and 1123(a) of the Bankruptcy Code. Section 1123(a) requires that a plan designate classes of claims, requires that the plan specify the treatment of any impaired class of claims, and requires that the plan provide the same treatment for each claim of a particular class, unless the holder of a claim receiving less favorable treatment consents to such treatment. 11 U.S.C. § 1123(a)(1), (3) and (4). Section 1122(a) of the Bankruptcy Code provides, subject to an exception for administrative convenience, that “a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.”

Article 3 of the Plan classifies the various Claims against and Interests in the Debtor into five classes of Claims and one class of Interests:

- Class A1 - Priority Non-Tax Claims
- Class A2 - EKD Secured Claim
- Class A3 - Other Secured Claims
- Class A4 - Unsecured Claims
- Class A5 - Interests

- Class B1 - Priority Non-Tax Claims
- Class B2 - Amadeus Secured Claim
- Class B3 - Other Secured Claims
- Class B4 - Unsecured Claims
- Class B5 - Interests

As set forth in Article 2 of the Plan, pursuant to section 1123(a)(1) of the Bankruptcy Code, certain Administrative Claims against the Debtor have not been classified. See “SUMMARY OF THE PLAN -- Treatment of Non-Classified Claims.”

Class A1 and B1 are unimpaired and the Holders of Class A1 and B1 Priority Non-Tax Claims shall not be entitled to vote on the Plan. Class A2 and B2 are impaired and the Holders of the Class A2 Amadeus Secured Claim and Class B2 EKD Secured Claim shall be entitled to vote on the Plan. Class A3 and B3 are unimpaired and the Holders of Class A3 and B3 Other Secured Claims shall not be entitled to vote on the Plan. Class A4 and B4 are impaired and the Holder of the Class A4 and B4 Unsecured Claims shall be entitled to vote on the Plan. Class A5 and B5 are unimpaired and the Holders of Class A5 and B5 Interests are unimpaired and not entitled to vote on the Plan.

**Class A1 – Priority Non-Tax Claims.** Class A1 consists of all Claims, other than Administrative Claims, Priority Tax Claims, or Bankruptcy Fees, to the extent entitled to priority under section 507 of the Bankruptcy Code. Certain Claims for taxes and the payment of expenses incurred by the Debtor subsequent to the Petition Date are entitled to priority under section 507 of the Bankruptcy Code, and are treated elsewhere as non-classified Claims. See

“SUMMARY OF THE PLAN -- Treatment of Non-classified Claims.” The Debtor does not believe that any such Priority Non-Tax Claims exist, as no entity filed a proof of claim asserting a priority claim that would fall within Class 1.

**Class A2 – EKD Secured Claim.** Class A2 consists of the EKD Secured Claim.

**Class A3 – Other Secured Claims.** Class A3 consists of other Allowed Secured Claims asserted against the EKD Property.

**Class A4 - Unsecured Claims.** Class A4 consists of various Allowed Unsecured Claims against EKD.

**Class A5 – Interests.** Class A5 consists of all Interests in EKD.

**Class B1 – Priority Non-Tax Claims.** Class B1 consists of all Claims, other than Administrative Claims, Priority Tax Claims, or Bankruptcy Fees, to the extent entitled to priority under section 507 of the Bankruptcy Code. Certain Claims for taxes and the payment of expenses incurred by the Debtor subsequent to the Petition Date are entitled to priority under section 507 of the Bankruptcy Code, and are treated elsewhere as non-classified Claims. See “SUMMARY OF THE PLAN -- Treatment of Non-classified Claims.” The Debtor does not believe that any such Priority Non-Tax Claims exist, as no entity filed a proof of claim asserting a priority claim that would fall within Class 1.

**Class B2 – Amadeus Secured Claim.** Class B2 consists of the Amadeus Secured Claim.

**Class B3 – Other Secured Claims.** Class B3 consists of other Allowed Secured Claims asserted against the Amadeus Property.

**Class B4 - Unsecured Claims.** Class B4 consists of various Allowed Unsecured Claims against Amadeus.

**Class B5 – Interests.** Class B5 consists of all Interests in Amadeus.

#### **TREATMENT OF CLAIMS CLASSIFIED UNDER THE PLAN**

Article 4 of the Plan provide for the treatment of impaired and unimpaired Claims classified in Article 3 of the Plan as follows:

**Class A1 – Priority Non-Tax.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive on the EKD Effective Date, or as soon as practicable after such Claim becomes an Allowed Claim, payment from the

Disbursing Agent, (i) in Cash, in the full amount of its Priority Non-Tax Claim, or (ii) as may be otherwise agreed in writing between Amadeus and the Holder of such Priority Non-Tax Claim.

**Class A2 – EKD Secured Claim.** In full satisfaction, release and discharge of the EKD Secured Claim, the Holder of the EKD Secured Claim:

(a) shall receive by January 15, 2017, Cash in the amount of \$5,396.166.14 plus additional legal fees; or

(b) if the Debtors cannot pay the EKD Secured Claim by January 15, 2017, then EKD shall market the EKD Property for sale using a broker that is mutually agreed to and pursuant to bidding procedures, attached hereto as **Exhibit A**, and the EKD Secured Claim shall continue to accrue interest at a rate of 18% per annum till closing.

If EKD or the Derderians default on any of their obligations contained herein, Nautilus may settle an order to appoint a trustee and/or plan administrator on notice for 7 business days (the “Cure Period”). Neither EKD nor the Derderians shall object to the appointment of a trustee and/or plan administrator, except to contest the existence of a default. If a trustee and/or plan administrator is appointed, then the EKD Secured Claim will be in default and Nautilus shall be entitled to interest at the default rate of 24% per annum.

The Derderians shall vacate the EKD Property and the apartment they currently reside in shall be vacant by January 14, 2017, however, the Derderians may request a two-week extension of such deadline. Failure to vacate by January 14, 2017 shall be a default under this article. The Plan Administrator shall be entitled to entry of a writ of assistance from the Court and/or a warrant of eviction from the New York State Court.

**Class A3 – Other Secured Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Other Secured Claims, each Holder of an Other Secured Claim shall receive, on the EKD Effective Date, or as soon as practicable after such Other Secured Claim becomes an Allowed Claim, (i) the payment of such Holder’s Allowed Class 3 Other Secured Claim in full, in Cash, or (ii) such other treatment as to which Amadeus and each Holder of such Other Secured Claim shall have agreed-upon in writing.

**Class A4 – Unsecured Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, the Holder of the Allowed Unsecured Claims against EKD will receive, in full satisfaction, settlement, release and discharge of the Class 4 Allowed Unsecured Claims shall receive:

(a) if the EKD Secured Claim is paid by January 15, 2017, 10% of their Allowed Unsecured Claim 60 days after the EKD Effective Date; or

(b) if the EKD Secured Claim is not paid by January 15, 2017 and the EKD Property is sold at Auction, the Holders of Unsecured Claims shall receive on the EKD Effective Date, their pro rata share of the EKD Property Sales Proceeds, after payment in full plus interest at the federal judgment rate to all senior creditors.

**Class A5 – Interests.** Upon the EKD Effective Date,

(a) if the EKD Secured Claim is paid by January 15, 2017, the Interest Holders shall retain their Interest in EKD in consideration for: (1) the funding of the Contribution Amount due hereunder, and (2) the guaranty by the Interest Holder of the fees of the Court-retained professionals in this case, after such fees are approved by the Court; or

(b) if the EKD Secured Claim is not paid by January 15, 2017 and the EKD Property is sold at Auction, the Interest Holders shall receive on the EKD Effective Date, their pro rata share of the EKD Property Sales Proceeds, after payment in full plus interest at federal judgment rate to all senior creditors, which shall be contributed towards funding payments to be made by Amadeus. All Interests in EKD shall be canceled and of no force and effect.

**Class B1 – Priority Non-Tax.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Priority Non-Tax Claims, each Holder of a Priority Non-Tax Claim shall receive on the Amadeus Effective Date, or as soon as practicable after such Claim becomes an Allowed Claim, payment from the Disbursing Agent, (i) in Cash, in the full amount of its Priority Non-Tax Claim, or (ii) as may be otherwise agreed in writing between EKD and the Holder of such Priority Non-Tax Claim.

**Class B2 – Amadeus Secured Claim.** In full satisfaction, release and discharge of the Amadeus Secured Claim, the Holder of the Amadeus Secured Claim

(a) shall receive by January 15, 2017, Cash in the amount of \$3,596,645.86 plus additional legal fees; or

(i) the Interest Holders of EKD shall contribute their pro rata share of the EKD Sales Proceeds to pay the Amadeus Secured Claim in full; or

(ii) if the Interest Holders pro rata share of the EKD Sales Proceeds is insufficient to pay the Amadeus Secured Claim in full then Amadeus shall obtain financing to pay the difference between the remaining EKD Sales Proceeds and the Amadeus Secured Claim; or

(iii) if the Interest Holders pro rata share of the EKD Sales Proceeds is insufficient to pay the Amadeus Secured Claim in full, Amadeus shall market the Amadeus Property for sale using a broker chosen by Nautilus pursuant to bidding procedures attached hereto as **Exhibit A**. The Amadeus Secured claim shall continue to accrue interest at a rate of 18% per annum till closing.

If Amadeus defaults on any of its obligations contained herein, Nautilus may settle an order to appoint a trustee and/or plan administrator on notice for 7 business days (the "Cure Period"). Amadeus shall not object to the appointment of a trustee and/or plan administrator, except to contest the existence of a default. If a trustee and/or plan administrator is appointed, then the Amadeus Secured Claim will be in default and Nautilus shall be entitled to interest at the default rate of 24% per annum.

**Class B3 – Other Secured Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Other Secured Claims, each Holder of an Other Secured Claim shall receive, on the Amadeus Effective Date, or as soon as practicable after such Other Secured Claim becomes an Allowed Claim, (i) the payment of such Holder's Allowed Class 3 Other Secured Claim in full, in Cash, or (ii) such other treatment as to which EKD and each Holder of such Other Secured Claim shall have agreed-upon in writing.

**Class B4 – Unsecured Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, the Holder of the Allowed Unsecured Claims against Amadeus will receive, in full satisfaction, settlement, release and discharge of the Class 4 Allowed Unsecured Claims shall receive:

(a) if the EKD Secured Claim is paid by January 15, 2017, 10% of their Allowed Unsecured Claim 60 days after the Amadeus Effective Date; or

(b) if the Amadeus Secured Claim is not paid by January 15, 2017 then Allowed Holders of Unsecured Claims Against Amadeus shall receive:

(i) if the Amadeus Secured Claim is paid in full either through payment of the remaining EKD Sales Proceeds or through refinancing of the Amadeus Property, 10% of their Allowed Unsecured Claim 60 days after the Amadeus Effective Date; or

(ii) if the Amadeus Property is sold at auction, Holders of Allowed Unsecured Claims shall receive on the Amadeus Effective Date, their pro rata share of the Amadeus Property Sales Proceeds, after payment in full plus interest at the federal judgment rate to all senior creditors.

**Class B5 – Interests.** Upon the Amadeus Effective Date,

(a) if the Amadeus Secured Claim is paid by January 15, 2017, the Interest Holders shall retain their Interest in EKD in consideration for: (1) the funding of the Contribution Amount due hereunder, and (2) the guaranty by the Interest Holder of the fees of the Court-retained professionals in this case, after such fees are approved by the Court; or

(b) if the Amadeus Secured Claim is not paid by January 15, 2017, the Interest Holder in Amadeus shall receive:

(i) . if the Allowed Secured Claim is paid in full either through payment of the remaining EKD Sales Proceeds or through refinancing of the Amadeus Property, the Interest Holder shall retain its Interest through its contribution of the remaining EKD Sales Proceeds; or

(ii) if the Amadeus Property is sold at auction, then the Interest Holder shall receive his pro rata share of the Amadeus Sales Proceeds after payment in full plus interest at the federal judgment rate to all senior creditors.. All Interests in Amadeus shall be canceled and of no force and effect.

#### **TREATMENT OF NON-CLASSIFIED CLAIMS**

Pursuant to section 1123(a)(1) of the Bankruptcy Code, the Plan does not classify Administrative Claims entitled to priority treatment under section 507(a)(1) of the Bankruptcy Code or Claims of Governmental Units entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code. Article 2 of the Plan provides for the manner of treatment of such non-classified Claims.

**Administrative Claims.** Administrative Claims are the costs and expenses of administration of this Case, allowable under section 503(b) of the Bankruptcy Code, other than Bankruptcy Fees. Administrative Claims include Claims for the provision of goods and services to the Debtors after the Petition Date, the liabilities incurred in the ordinary course of the Debtors' businesses (other than claims of governmental units for taxes or interest or penalties related to such taxes) after the Petition Date, Claims of professionals, such as attorneys, appraisers, and accountants, retained pursuant to an order of the Bankruptcy Court, for compensation and reimbursement of expenses under section 330 of the Bankruptcy Code, and tax claims for the period from the Petition Date to the EKD Effective Date or Amadeus Effective of the Plan, as it applies to such Claim.

Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of (x) the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Allowed Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the Debtors and the Holder of such Claim; *provided, however*, that any Administrative Claim incurred by the Debtors in the ordinary course of their businesses shall be paid in full or performed by the Reorganized Debtors in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto.

Article 2 of the Plan sets a final date for the filing of Administrative Claims against the Debtors. The Administrative Bar Date is the first Business Day which is at least 60 days after the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim. In the event that the Plan is confirmed, the Debtors shall deliver a notice of such bar date to all parties-in-interest.



**Professionals' Fees.** Section 330 of the Bankruptcy Code sets the standard for the determination by the Bankruptcy Court of the appropriateness of fees to be awarded to Professionals retained by the Debtors in a case under the Bankruptcy Code. In general, "bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a case under title 11 at the same rate as the attorney or other professional would be compensated for performing comparable service other than in a case under title 11." 124 Cong. Rec. H11091 (Daily ed. Sept. 28, 1978).

With respect to Professionals' Fees, the Plan provides that, subject to the approval of compensation and reimbursement of expenses pursuant to sections 330 and 331 of the Bankruptcy Code, the Debtors shall pay the Administrative Claims held by Bankruptcy Professionals as follows:

Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final application for approval of its Professional Fees no later than the Administrative Bar Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim.

**Administrative Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim, or (ii) upon such other terms as may be agreed to, in writing, between the Debtors and such Governmental Units on or before the Confirmation Date.

**Priority Tax Claims.** In full satisfaction, release and discharge of Priority Tax Claims, and except as may be otherwise mutually agreed in writing between the Debtors and such Governmental Units, all allowed Priority Tax Claims shall be paid by the Reorganized Debtors in Cash in full, together with interest on the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim.

**Bankruptcy Fees.** All fees and charges assessed against the Debtors under section 1930 of title 28 of the United States Code and any applicable interest thereon shall be paid by the Reorganized Debtors, in full, in Cash by the EKD Effective Date or Amadeus Effective Date, as it applies to such fees, until the closing, conversion or dismissal of the Cases, whichever is earlier.

## **DISPUTED CLAIMS AND INTERESTS**

Article 7 of the Plan contains a mechanism for resolving disputes concerning the amount of certain Claims or Interests asserted against the Debtors by any Entity.

**Time to Object.** Unless otherwise ordered by the Bankruptcy Court, the Debtors or the Reorganized Debtors may file and serve any objection to any Claim or Interest at any time, but in no event after the later to occur of (i) 60 days after the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim, or (ii) 60 days after the date proof of such Claim or Interest or a request for payment of such Claim is filed.

#### **DISTRIBUTIONS UNDER THE PLAN**

Article 7 contains provisions governing the making of distributions on account of Claims. In general, any payments, distributions or other performance to be made pursuant to the Plan on account of any Allowed Claim shall be deemed to be timely made if made on or within five days following the later of (i) the expiration of any applicable objection deadline with respect to such Disputed Claim or (ii) such other times provided in the Plan All Cash payments to be made by the Debtors pursuant to the Plan shall be made by check drawn on a domestic bank. To the extent that any distribution is not timely paid, funds in an amount necessary to satisfy any such unpaid claim shall be maintained in an escrow account for distribution thereafter.

**Disbursing Agent.** The Disbursing Agent shall distribute all Cash or other property to be distributed under the Plan and may employ or contract such third parties as may be necessary to assist in or perform the distribution of Cash or other property under the Plan. Pending the final distribution of all sums distributable under the terms of the Plan (including the delivery to the Reorganized Debtors of unclaimed distributions pursuant to section 7.14 of the Plan), the Disbursing Agent shall have full authority to sign checks on any bank account of the Reorganized Debtors to the extent necessary to make any payment or distribution contemplated by the Plan.

**Timing of Distributions Under the Plan.** Subject to sections 7.6 and 7.8 of the Plan, any payments, distributions or other performance to be made pursuant to the Plan on account of any Disputed Claim, shall be deemed to be timely made if made on or within five days following the later of (i) the expiration of any applicable objection deadline with respect to such Disputed Claim or (ii) such other times provided in the Plan.

**Method of Payment.** Unless otherwise expressly agreed, in writing, all Cash payments to be made pursuant to the Plan shall be made by check drawn on a domestic bank.

**Claims Objection Deadline.** Unless otherwise ordered by the Bankruptcy Court, the Debtors or the Reorganized Debtors may file and serve any objection to any Claim or Interest at any time, but in no event after the later to occur of (i) 60 days after the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim, or (ii) 60 days after the date proof of such Claim or Interest or a request for payment of such Claim is filed. If Nautilus accepts its treatment under the Plan and the Plan is confirmed, neither the EKD Secured Claim nor the Amadeus Secured Claim shall be subject to objections by any party in interest.

**Prosecution of Objections.** After the Confirmation Date, only the Reorganized Debtors shall have authority to file, settle, compromise, withdraw or litigate to judgment objections to Disputed Claim. The Reorganized Debtors may comprise any objections to Disputed Claims without further order of the Court.

**No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no payment or distribution of any kind shall be made with respect to any portion of a Disputed Claim unless and until all objections to such Claim are resolved by Final Order.

**Escrow of Cash Distributions.** (a) On any date that distributions are to be made under the terms of the Plan, the Reorganized Debtors shall make available any and all funds required under Plan to be disbursed on that date, and the Disbursing Agent shall deposit in one or more segregated accounts, Cash or property equal to 100% of the Cash that would be distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, including, but not limited to (i) Disputed Claims that may be entitled to treatment as Administrative Claims or as Priority Non-Tax Claims pursuant to sections 503 and 507 of the Bankruptcy Code, (ii) claims of Governmental Units for any tax, (iii) any disputed Cure Amount, and (iv) any amount due but not payable on the EKD Effective Date or Amadeus Effective Date on account of such Administrative Claims or claims entitled to priority pursuant to section 503 and 507 of the Bankruptcy Code. The Disbursing Agent shall also segregate any interest, dividends or other proceeds of such Cash. Such Cash together with any interest, dividends or proceeds thereof, be held in trust for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto.

(b) The Reorganized Debtors shall have the right to seek an Order of the Bankruptcy Court, after notice and hearing, estimating or limiting the amount of Cash that must be so deposited on account of any Disputed Claim. Any Creditor whose Claim is so estimated shall have no recourse to any assets theretofore distributed on account of any Allowed Claim if the Allowed Claim of that Creditor as determined by Final Order exceeds the amount so deposited. Such Creditor shall have recourse first, to the undistributed assets in the Disputed Claims Reserve (on a Pro Rata basis with other Creditors of the same Class who are similarly situated) that exceed the aggregate amount of all Disputed Claims allowed by Final Order, or not yet resolved, and second any unpaid amount shall be an obligation of the Reorganized Debtors.

**Distribution After Allowance.** Within 15 days after the entry of a Final Order resolving an objection to a Disputed Claim, the Disbursing Agent shall distribute all Cash or other property, including any interest, dividends or proceeds thereof, to which a Holder is then entitled with respect to any formerly Disputed Claim that has become an Allowed Claim.

**Investment of Segregated Cash.** To the extent practicable, the Disbursing Agent may invest any Cash segregated on account of a Disputed Claim, disputed Interest, undeliverable distribution, or any proceeds thereof (i) in a manner that will yield a reasonable net return taking into account the safety of the investment or (ii) in any manner permitted by section 345 of the

Bankruptcy Code; *provided, however*, that the Disbursing Agent shall be under no obligation to so invest such Cash or proceeds and shall have no liability to any party for any investment made or any omission to invest such Cash or proceeds. Segregated Cash shall be maintained in an authorized depository.

**Distribution After Disallowance.** Subject to section 7.7 of the Plan, the Cash segregated on account of Disputed Claims, including the allocable portion of the net return yielded from any investment thereof, if any, remaining after all Disputed Claims have been resolved by Final Order shall revert to the Reorganized Debtors.

**Surrender of Instruments; Execution of Satisfactions and Releases.** (a) Notwithstanding any other provision of the Plan, no Creditor that holds a note (including the Amadeus Note and EKD Note) or other instrument evidencing such Creditor's Claim may receive any distribution with respect to such Claim unless and until the original note or other original instrument evidencing such Claim (including but not limited to all documents evidencing the Amadeus Secured Claim and EKD Secured Claim) shall have been validly surrendered to the Disbursing Agent at the sole cost and expense of such Creditor.

(b) Any Cash or property to be distributed pursuant to the Plan on account of any such Claim shall, pending surrender, be treated as an undeliverable distribution pursuant to section 7.13 of the Plan.

(c) In the event any Creditor is unable to surrender a note (including the Amadeus Note and EKD Note) or other instrument evidencing a Claim against the Debtor that has been destroyed, lost or stolen, such entity may receive a distribution with respect to such Claim by presenting to the Disbursing Agent, in a form acceptable to the Disbursing Agent: (i) proof of such entity's title to such Claim; (ii) an affidavit to the effect that the same has been lost and after diligent search cannot be located; and (iii) such indemnification as may be required by the Disbursing Agent and all other entities deemed appropriate by the Disbursing Agent from any loss, action, suit or any claim whatsoever which may be made as a result of such entity's receipt of a distribution under the Plan.

(d) All questions as to the validity, form or eligibility of any note or other instrument evidencing a Claim so surrendered shall be resolved by Final Order of the Bankruptcy Court. The Disbursing Agent shall not be under any duty to give notification of defects in such tender or shall incur liability for failure to give notification of such defects.

**Delivery of Distributions.** Except as provided in sections 7.13, 7.14 and 7.15 of the Plan, distributions to Holders of Allowed Claims and Allowed Interests shall be made: (1) at the addresses set forth on the respective Proofs of Claim or Proofs of Interests filed by such Holders; (2) at the addresses set forth in any written notices of address changes delivered to the Disbursing Agent after the date of any related Proof of Claim; or (3) at the address reflected in the Schedules if no Proof of Claim or Proof of Interest is filed and the Disbursing Agent has not received a written notice of a change of address.

**Undeliverable Distributions.** (a) If the distribution to the Holder of any Claim or Interest is returned to the Disbursing Agent as undeliverable, no further distribution shall be made to such Holder unless and until the Disbursing Agent is notified in writing of such Holder's then current address. Undeliverable distributions shall remain in the possession of the Disbursing Agent until the earlier of (i) such time as a distribution becomes deliverable or (ii) such undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan.

(b) Until such time as an undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan, within 30 days after the end of each calendar quarter following the EKD Effective Date or Amadeus Effective Date, the Disbursing Agent shall make distributions of all Cash that has become deliverable during the preceding quarter. Each such distribution shall include the net return yielded from the investment of any undeliverable Cash, from the date such distribution would have been due had it then been deliverable to the date that such distribution becomes deliverable.

(c) Nothing contained in the Plan shall require the Reorganized Debtors to attempt to locate any Holder of an Allowed Claim or an Allowed Interest.

**Unclaimed Distributions.** Any Cash or other assets to be distributed under the Plan shall revert to the Reorganized Debtors if it is not claimed by the entity entitled thereto before the later of (i) one year after the EKD Effective Date or Amadeus Effective Date; (ii) one year after such scheduled payment to such entity under Article 4 of this Plan; or (iii) one year after an Order allowing the Claim of that entity becomes a Final Order, and such entity's claim shall be reduced to zero.

**Set-offs.** The Reorganized Debtors, as Disbursing Agent, may, but shall not be required to, set-off against the distributions to be made pursuant to the Plan, the claims, obligations, rights, causes of action and liabilities of any nature that the Reorganized Debtor may hold against the Holder of an Allowed Claim, *provided, however*, that neither the failure to effect such a set-off nor the allowance of any claim hereunder shall constitute a waiver or release by the Reorganized Debtors of any such claims, obligations, rights, causes of action and liabilities that the Debtors (or the Reorganized Debtors) has or may have against such Holder. To the extent the Reorganized Debtors elect to effectuate a set-off, it shall notify the Holder of the Allowed Claim in writing at least ten (10) days prior to effectuating the set-off. To the extent the Holder of an Allowed Claim objects to the set-off, a written objection shall be provided to the Reorganized Debtors, as Disbursing Agent, no later than three (3) days prior to the set-off date or the objection shall be waived.

#### **DISTRIBUTIONS WITH RESPECT TO DISPUTED CLAIMS**

During the pendency of any objection to any Claim, no distribution under the Plan will be made to the holder of such Claim. However, there will be set aside and reserved on

behalf of such disputed Claim such cash or property as the holder thereof would be entitled to receive in the event such Claim was an Allowed Claim on the date of such distribution. The Debtor may seek an order of the Bankruptcy Court estimating or limiting the amount of Cash or property that must be deposited in respect of any such disputed Claims. Cash held in reserve for disputed Claims will be held in trust for the benefit of the holders of such Claims.

Within 15 days after the entry of a Final Order resolving an objection to a Disputed Claim, the Disbursing Agent shall distribute all Cash or other property, including any interest, dividends or proceeds thereof, to which a holder is then entitled with respect to any formerly Disputed Claim that has become an Allowed Claim. To the extent practicable, the Disbursing Agent shall hold such cash in a segregated account in accordance with section 345 of the Bankruptcy Code, and may invest any cash or other property segregated on account of a Disputed Claim, Disputed Interest, undeliverable distribution, or any proceeds thereof; however, the Disbursing Agent shall be under no obligation to so invest such Cash or proceeds and shall have no liability to any party for any investment made or any omission to invest such Cash, other property or proceeds. Any segregated amounts remaining after all Disputed Claims have been resolved will be retained by Debtor.

#### **COMPLIANCE WITH TAX REQUIREMENTS**

In connection with the Plan, the Disbursing Agent shall comply with all withholding and reporting requirements imposed by federal, state and local taxing authorities and distributions under the Plan shall be subject to such withholding and reporting requirements provided, however, that the transfer of any Cash, property or other interest under the Plan shall not be subject to any federal, state or local tax to the fullest extent provided under section 1146 of the Bankruptcy Code.

#### **EFFECTIVE DATE**

The EKD Effective Date of the Plan shall be the first Business Day after which all of the conditions to the EKD Effective Date, specified in section 11.1 of the Plan, have been satisfied.

The Amadeus Effective Date of the Plan shall be the first Business Day after which all of the conditions to the Amadeus Effective Date, specified in section 11.1 of the Plan, have been satisfied.

#### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

On the EKD Effective Date and the Amadeus Effective Date, depending on the Debtor, except as provided herein or in a Plan Supplement, all Executory Contracts and Unexpired Leases to which Debtors are a party, if any, shall be deemed assumed and assigned to the Reorganized Debtor in accordance with Section 365 of the Bankruptcy Code.

**Assumption Cure Payments.** Except as otherwise agreed to by the parties, on the EKD Effective Date and Amadeus Effective Date, depending on the Debtor, the Reorganized Debtors shall cure any and all undisputed defaults under any Executory Contract or Unexpired Lease that is assumed pursuant to the Plan in accordance with Section 365 of the Bankruptcy Code. Unless the parties to the contract or lease agree otherwise, all disputed defaults that are required to be cured shall be cured by the later to occur of (i) ten (10) days after the entry of a Final Order determining the amount, if any, of the Reorganized Debtors' liability with respect thereto and (ii) the EKD Effective Date or Amadeus Effective Date.

**Rejection Claims.** Allowed Claims arising from the rejection of any Executory Contract or Unexpired Lease of the Debtors shall be treated as an Unsecured Claim.

A Proof of Claim with respect to any Unsecured Claim for damages arising from the rejection of an Executory Contract or Unexpired Leases pursuant to the Plan shall not be timely filed unless it is filed with the Bankruptcy Court and served so that it is received by the Debtors no later than 30 days after the later of (i) the date of entry of a Final Order approving such rejection (unless such Final Order expressly provides a Bar Date with respect to such Claim, in which event no Proof of Claim with respect to such Claim shall be deemed timely filed unless it is filed with the Bankruptcy Court and served in the manner provided in such Final Order), or (ii) the EKD Effective Date or Amadeus Effective Date, as it applies to such Claim. Any such Proof of Claim not timely filed and served shall be forever barred from assertion and may not be enforced against the Debtors, their successors or their respective properties.

#### **IMPLEMENTATION OF THE PLAN**

**Implementation.** The Debtors shall take all necessary steps, and perform all necessary acts, to consummate the terms and conditions of the Plan. The Confirmation Order shall contain appropriate provisions, consistent with section 1142 of the Bankruptcy Code, directing the Debtors and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of either the EKD Property and/or the Amadeus Property, depending on whether certain conditions precedent are satisfied, and to perform any act, including the satisfaction of any lien, that is necessary for the consummation of the Plan.

**Plan Funding.** Funding for the Plan shall be from either (a) financing sufficient to pay the EKD Secured Claim and Amadeus Secured Claim by January 15, 2017 or (b) from a sale of the EKD Property to satisfy the Claims and Interests against EKD, with any remaining EKD Sale Proceeds to be contributed towards funding payments to satisfy Claims and Interests against Amadeus. To the extent the EKD Sale Proceeds are insufficient to pay these Claims, Amadeus shall either secure additional financing or sell the Amadeus Property to fund payments for remaining Claims. If required, the Contribution Amount shall be paid on or before the EKD Effective Date and Amadeus Effective Date, and shall be used to pay certain of the Creditors' claims under this Plan, including, but not limited to, payment of Administrative Claims, Bankruptcy Fees, Tax Claims and the Unsecured Creditors' Claims.

**Plan Administrator.** If the Debtors or its Interest Holders fail to comply with any of its obligations set forth herein, Nautilus may settle an order for a plan administrator on 7 business days notice. The Debtors and Interest Holders shall not be entitled to object to such an order except to argue that there has been no failure to comply.

**Vesting of Assets.** Except as otherwise provided in the Plan, on the EKD Effective Date and Amadeus Effective Date, all of the Debtors' respective assets (including the Amadeus Property and EKD Property) shall vest in the respective Reorganized Debtor, free and clear of all Liens, Claims and encumbrances. In the event the EKD Property and/or Amadeus Property is sold, upon the closing date, the EKD Property and Amadeus Property shall vest in the respective successful purchaser at which time any and all Liens, Claims and encumbrances that have not been expressly preserved under the Plan shall be deemed extinguished as of such date. Following the Amadeus Effective Date and EKD Effective Date, the Debtors may operate, buy, use, acquire, and dispose of the property of the Estate and may settle and compromise any claims, interests and causes of action in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules.

**Execution of Documents.** (a) On the EKD Effective Date and Amadeus Effective Date, the respective Debtor, and any necessary party thereto, shall execute, release and deliver all documents reasonably necessary to consummate the transactions contemplated by the terms and conditions of the Plan.

(b) Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, the Debtors shall be authorized to execute, in the name of any necessary party any estoppel certificate, or any notice of satisfaction, release or discharge of any Lien, Claim or encumbrance (including, any Lien, Claim or encumbrance that is to be released and satisfied upon the Debtors' compliance with the provisions of article 4 of the Plan) not expressly preserved in the Plan and deliver such notices to any and all federal, state and local governmental agencies or departments for filing and recordation, and the Confirmation Order shall expressly so provide.

**Filing of Documents.** Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, each and every federal, state and local governmental agency or department, shall be directed to accept and record any and all documents and instruments necessary, useful or appropriate to effectuate, implement and consummate the transactions contemplated by the Plan, and any and all notices of satisfaction, release or discharge or assignment of any Lien, Claim or encumbrance not expressly preserved by the Plan.

**Distributions.** Except as set forth elsewhere in the Plan, all payments required to be made under the Plan shall be made by the Disbursing Agent for disbursement in accordance with the terms of the Plan.

**Preservation of Rights of Action.** Except as otherwise provided in the Plan, or in any contract, instrument, release or other agreement entered into in connection with the Plan,



the Reorganized Debtor shall retain any claims, rights and causes of action (i) arising under sections 510 and 544 through 550 of the Bankruptcy Code or (ii) belonging to the Debtors as of the Petition Date, or the Estate of the Debtor, and arising under any provision of state or federal law, or any theory of statutory or common law or equity.<sup>7</sup>

Any recovery received by the Reorganized Debtors through the prosecution, settlement or collection of any such claim, right or cause of action, shall be retained by the Reorganized Debtors following the satisfaction of all other Allowed Claims under the terms of the Plan.

Notwithstanding any provision of the Plan to the contrary, definitions and descriptions contained herein respecting pre-Petition Date documents, agreements or claims are provided solely for the purpose of identification and classification thereof and do not constitute an admission by the Debtors of the existence, validity allowance, or amount of any such claim, document or agreement. The Debtors and the Reorganized Debtors expressly reserve the right to challenge the existence, validity, allowance, or amount of any such claim, document or agreement.

**Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security and the making or delivery of any instrument of transfer in connection with or in furtherance of the Plan, if any, from and for up to two (2) years after the Confirmation Date (including any instrument executed in furtherance of the transactions contemplated by the Plan), shall not be subject to tax under any law imposing a stamp tax, real estate Transfer Tax, mortgage recording tax or similar tax, including any such taxes due on the refinancing or sale of either the Amadeus Property or the EKD Property, and to the extent provided by 1146(a), if any, shall not be subject to any state, local or federal law imposing such tax.

**Post-Confirmation Management and Compensation.** To the extent neither the EKD Property nor the Amadeus Property are sold, the Debtors will continue in existence post-confirmation as the Reorganized Debtors. The Interest Holders of the Debtors have agreed that the Reorganized Debtors shall continue be managed Ekaterina Derderian.

**Corporate Governance Documentation.** The operating agreement of the Debtors shall be amended and restated as necessary to satisfy the provisions of the Plan and the Bankruptcy Code, as is necessary.

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<sup>7</sup> If Nautilus accepts its treatment under the Plan and the Plan is confirmed, the Debtors will have been deemed to have waived any causes of action and claims it may have against Nautilus as set forth herein. If Nautilus accepts its treatment under the Plan and the Plan is confirmed, the Debtors will not object to the EKD Secured Claim or the Amadeus Secured Claim.

## MISCELLANEOUS PROVISIONS

### MODIFICATION AND REVOCATION OF THE PLAN

The Plan may be altered, amended or modified by the Debtor with the consent of Nautilus, at any time before the substantial consummation of the Plan, as provided in sections 1101(a) and 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. Section 1127 of the Bankruptcy Code authorizes the proponent of a plan of reorganization to modify such plan at any time prior to confirmation of the plan so long as the plan, as modified, continues to meet certain technical requirements of sections 1122 and 1123 of the Bankruptcy Code with respect to the classification of Claims and Interests and the contents of a plan. Prior to Confirmation, if a proponent files modifications to a plan, pursuant to section 1127(a) “the plan as modified becomes the plan.” No order of the Court is required to modify the Plan under the terms of section 1127(a); however, the proponent of a modification to a plan must comply with section 1125 of the Bankruptcy Code with respect to the plan as modified. In other words, if a modification materially alters the treatment of any Creditor who has accepted the Plan, the Debtors will be required to make additional disclosures to those Creditors whose treatment has been materially and adversely altered and give such Creditors an opportunity to change their votes.

The Debtors may revoke or withdraw the Plan at any time prior to entry of the Confirmation Order with the consent of Nautilus. If the Debtors revokes or withdraw the Plan, or if no Confirmation Order is entered, the Plan shall be null and void, and nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against or any interest in, the Debtors; or (ii) prejudice in any manner the rights of the Debtors in any further proceedings involving the Debtors or any other party, or their Estates.

### RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order or the occurrence of the EKD Effective Date and Amadeus Effective Date, until the Case is closed, the Bankruptcy Court shall retain and have original, but not exclusive, jurisdiction to:

i) Insure that the Plan is consummated, and to enter any Order pursuant to section 1142(b) of the Bankruptcy Code, to compel the Debtors, the Interest Holders and any other necessary party, to take such action and execute such documents to effectuate the Plan;

ii) Consider any modification of the Plan proposed pursuant to section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019;

iii) Allow, disallow, determine, liquidate, classify or establish the priority, secured or unsecured status of any Claim or Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense, the resolution of any and

all objections to the allowance or priority of Claims or Interests, and the resolution of any adversary proceeding;

iv) Grant or deny any and all applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for any period ending on or before the EKD Effective Date and Amadeus Effective Date;

v) Resolve any motions pending on the EKD Effective Date and Amadeus Effective Date to assume, assume and assign or reject any Executory Contract or Unexpired Lease to which the Debtors are a party or with respect to which the Debtors may be liable and to hear, determine and if necessary, liquidate, any and all Claims arising therefrom;

vi) Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished in accordance with the provisions of this Plan;

vii) Decide or otherwise resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters or grant or deny any applications involving the Debtors that may be pending on the EKD Effective Date and Amadeus Effective Date;

viii) Enter such Orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan or Disclosure Statement or to enforce all orders, judgments, injunctions, and rulings entered in connection with the Case, including, but not limited to any Order necessary to enforce the provisions of article 7 of the Plan;

ix) Resolve any and all controversies, suits or issues that may arise in connection with the consummation, interpretation or enforcement of the Plan or any entity's obligations incurred in connection with the Plan;

x) Modify the Plan before or after the EKD Effective Date and Amadeus Effective Date pursuant to section 1127 of the Bankruptcy Code, or to modify the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement;

xi) Remedy any defect or omission or reconcile any inconsistency in any Order, the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan, to the extent authorized herein or in the Bankruptcy Code;

xii) Issue any injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation or enforcement of the Plan;

xiii) Enter and implement such Orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

xiv) Determine any dispute arising under or related to the Plan, including, without limitation, any dispute concerning the scope or effect of any release or discharge provided for by the Plan or the Confirmation Order.

xv) Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement; and

xvi) Enter an Order or Final Decree concluding the Case.

### **RISK FACTORS**

Although the Debtors believe that it will be able to meet all of the obligations that it is undertaking pursuant to the Plan there can be no assurance that future events will not cause the Debtors to default on one or more of their obligations under the Plan or that the closing will occur.

### **CONFIRMATION OF THE PLAN**

All distributions to Creditors are contingent on the Plan being confirmed by this Court. Otherwise, the Debtors are not obligated, in any way, to make the payments required hereunder.

### **RISK OF SUBSEQUENT REORGANIZATION OR LIQUIDATION**

Although the Debtors believe that the confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtors, there can be no assurance that such liquidation will not occur or that the need for such financial reorganization will not arise.

### **VOTING INSTRUCTIONS**

A Creditor who is entitled to vote may accept or reject the Plan by executing and returning to the Balloting Agent (as defined below) the ballot (a "Ballot") that was sent out with this Disclosure Statement. The following instructions govern the time and manner for filing Ballots accepting or rejecting the Plan, withdrawing or revoking a previously filed acceptance or rejection, who may file a Ballot, and procedures for determining the validity or invalidity of any Ballot received by the Balloting Agent.

## **DEADLINE FOR RECEIPT OF BALLOTS**

The solicitation period for votes accepting or rejecting the Plan will expire at 5:00 p.m., Eastern Standard Time, December 21, 2016 (the “Voting Deadline”). A Ballot accepting or rejecting the Plan must be received no later than that date and time or it will not be counted in connection with the Confirmation of the Plan or any modification thereof.

## **BALLOTING AGENT**

All votes to accept or reject the Plan must be cast by using the Ballot. Executed Ballots should be returned by December 21, 2016 at 5:00 p.m. to:

**Robinson Brog Leinwand Greene Genovese & Gluck P.C.**  
875 Third Avenue, 9th Floor  
New York, New York 10022  
**Attention: Robert M. Sasloff, Esq.**

(the “Balloting Agent”). A Creditor entitled to vote who has not received a Ballot, or who’s Ballot has been lost, stolen or destroyed, may contact the Balloting Agent at the address indicated above, or call Robert M. Sasloff at (212) 603-6329 to receive a replacement Ballot.

## **WHO MAY VOTE - IN GENERAL**

Classes A1 and B1 are unimpaired and the Holders of Class A1 and B1 Priority Non-Tax Claims are not entitled to vote on the Plan. Classes A2 and B2 are impaired and the Holders of Class A2 Amadeus Secured Claim and Class B2 EKD Secured Claim are entitled to vote on the Plan. Classes A3 and B3 are unimpaired and the Holders of Class A3 and B3 Other Secured Claims are not entitled to vote on the Plan. Classes A4 and B4 are impaired and the Holder of the Class A4 and B4 Unsecured Claims are entitled to vote on the Plan. Classes A5 and B5 are unimpaired and the Holders of Class A5 and B5 Interests are not entitled to vote on the Plan.

**Ballots Executed in a Representative or Fiduciary Capacity.** Ballots executed by executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, must indicate the capacity in which such person executed the Ballot and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of their authority to so act.

**Voting Multiple Claims.** A single form of ballot is provided for each Class of Claims. Any Person who holds Claims in more than one Class is required to vote separately with respect to each Class in which such Person holds Claims. However, any Person who holds more than one Claim in one particular Class will be deemed to hold only a single Claim in such Class in the aggregate amount of all Allowed Claims in such Class held by such Person. Thus, each Person need complete only one ballot for each Class.

## **DEFECTS OR IRREGULARITIES**

**ANY EXECUTED AND TIMELY FILED BALLOT WHICH DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN SHALL BE DEEMED TO BE AN ACCEPTANCE OF THE PLAN.**

Where more than one timely and properly completed Ballot is received, the Ballot which bears the latest date will be counted.

The Debtors reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured prior to the deadline for filing timely Ballots. Neither the Debtors, the Balloting Agent, nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liability for failure to provide such notification. All questions as to the validity, form, eligibility (including the time of receipt), acceptance and revocation or withdrawal of Ballots will be determined by the Bankruptcy Court, upon motion and upon such notice and hearing as is appropriate under the circumstances. Unless otherwise directed by the Bankruptcy Court, delivery of Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots as to which any irregularities have not been cured or waived will not be counted toward the acceptance or rejection of the Plan.

## **REVOCAION OF PREVIOUSLY FILED ACCEPTANCES OR REJECTIONS**

Any Creditor who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Balloting Agent at any time prior to the Voting Deadline.

A notice of withdrawal, to be valid, must (i) describe the Claim, as the case may be, if appropriate, represented by such Claim, (ii) be signed by the Creditor in the same manner as the Ballot was signed and (iii) be received by the Balloting Agent on or before the Voting Deadline. The Debtors reserve the absolute right to contest the validity of any such withdrawals of Ballots.

## **ACCEPTANCE AND CONFIRMATION**

### **CONFIRMATION HEARING**

The Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing to consider confirmation of the Plan. The Confirmation Hearing is scheduled to commence on December 28, 2016 at 10:00 a.m. in the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York. The Confirmation Hearing

may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing.

Any party in interest may object to Confirmation of the Plan by filing a written objection, setting forth their identity and standing and the facts and authorities upon which any objection is based, in the Office of the Clerk of the Bankruptcy Court, no later than the deadline fixed by the Court and by delivering a courtesy copy to the Chambers of the presiding judge. Copies of all objections must also be served so that they are received, as required by the Court upon (i) Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: Robert M. Sasloff, Esq., and (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, New York 10014. Any objection that is not timely filed and served as required by any order of this Court, will not be considered by this Court at the Confirmation Hearing.

#### **REQUIREMENTS FOR CONFIRMATION**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. These requirements include determinations by the Bankruptcy Court that: (i) the Plan has classified Claims and Interests in a permissible manner, (ii) the contents of the Plan comply with various technical requirements of the Bankruptcy Code, (iii) the Debtors have proposed the Plan in good faith, (iv) the Debtors have made disclosures concerning the Plan that are adequate and include information concerning all payments made or promised in connection with the Plan and the Case, (v) the Plan is in the “best interest” of all Creditors, (vi) the Plan is feasible, and (vii) the Plan has been accepted by the requisite number and amount of Creditors in each Class entitled to vote on the Plan, or that the Plan may be confirmed without such acceptances. The Debtors believe that all of these conditions have been or will be met prior to the Confirmation Hearing.

**Best Interest Test.** The so-called “best interest” test requires that each impaired Creditor and impaired Interest Holder either (a) accepts the Plan or (b) receives or retains under the Plan property of a value, as of the EKD Effective Date and Amadeus Effective Date of the Plan, that is not less than the value such entity would receive or retain if the Debtors were to be liquidated under chapter 7 of the Bankruptcy Code.

To determine what the holders in each Impaired Class of Claims or Interest would receive if the Debtors were liquidated under chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors’ assets and properties in a chapter 7 liquidation case. The amount that would be available for satisfaction of Allowed Claims against the Debtors would consist of the proceeds resulting from the disposition of the Debtors’ respective assets, augmented by the cash held by the Debtors at the commencement of the chapter 7 case. Such amount would be reduced by the amount of any Claim or Claims secured by the Debtors’ assets, the costs and expenses of the liquidation, and such additional Administrative Claims and Priority Claims that may have accrued. Such value is then

juxtaposed against the amount creditors are receiving under the Plan to determine if the value each impaired creditor is receiving is the same or more than such creditor would receive from a chapter 7 liquidation on the Confirmation Date.

The costs of liquidation under chapter 7 would become Administrative Claims with the highest priority against the proceeds of liquidation. Such costs would include the fees payable to a chapter 7 Trustee, as well as those which might be payable to attorneys, financial advisors, appraisers, accountants and other professionals that such a Trustee may engage to assist in the liquidation. In addition, chapter 7 costs would include any liabilities incurred or assumed pursuant to the transactions necessary to effectuate the liquidation. Moreover, claims entitled to administrative priority may arise by reason of any breach or rejection of any executory contracts entered into by the Debtors during the pendency of the Cases in chapter 11.

After satisfying Administrative Claims arising in the course of the chapter 7 liquidation, the proceeds of the liquidation would then be payable to satisfy any unpaid expenses incurred during the time the Case was pending under chapter 11, including compensation for attorneys, financial advisors, appraisers, accountants and other professionals retained by the Debtors or any official committee appointed pursuant to section 1102 of the Bankruptcy Code.

After consideration of the effects that a chapter 7 liquidation would have on the proceeds available for distribution including (i) the increased costs and expenses of a chapter 7 liquidation arising from fees payable to a Trustee in bankruptcy and professional advisors to such Trustee, (ii) the erosion in value of the Debtors' assets in a chapter 7 case in the context of the expeditious liquidation required under chapter 7 and the "forced sale" atmosphere that would prevail, and (iii) the potential increases in Claims which would be satisfied on a priority basis or on a parity with the Claims of general Unsecured Creditors, and (iv) the substantial amount of secured claims in this case, which, the Debtors believe would exceed the value of the Amadeus Property and EKD Property only in a chapter 7 forced liquidation, the Debtors believe that Holders of Unsecured Claims and Interests would no distribution on account of their Claims.

**Liquidation Analysis.** The Debtors have concluded that the Plan provides to each Creditor recovery with a present value at least equal to the present value of the distribution which such person would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. The Plan provides for payment of the EKD Secured Claim and Amadeus Secured Claim by January 15, 2017. If the Debtors are successful in making such payment, then Holders of Unsecured Claims against both EKD and Amadeus shall receive 10% of their Allowed Claims to be funded by the Contribution Amount. If the Debtors are unsuccessful in paying the EKD Secured Claim and Amadeus Claim by January 15, 2017, then the EKD Property shall be sold to pay its Allowed Claims pursuant to their order of priority. To the extent there are EKD Sales Proceeds remaining, EKD's Interest Holders shall contribute these proceeds to fund payments of Amadeus' Allowed Claims. To the extent that the remaining EKD Sales Proceeds are insufficient to pay the Amadeus Secured Claim, Amadeus shall either finance the short fall and pay unsecured creditors 10% of their claims or sell the Amadeus Property and pay Allowed Claims pursuant to their priority. If Amadeus is able to finance its shortfall, either



Amadeus through its rent or its Interest Holder shall pay Unsecured Claims pursuant to the Plan. Additionally, to the extent EKD's Interest Holders contributes the remaining EKD Sales Proceeds to fund the payments of Amadeus' Allowed Claims, the mutual Interest Holder between EKD and Amadeus shall retain his Interest based on his contribution of the EKD Sales Proceeds.

The Debtors' Plan is predicated on Nautilus accepting a reduced amount on account of their claims. Should this Plan not be confirmed, it is uncertain as to whether Nautilus would accept a reduction on account of its Claims.

The Debtors believe that in the event its assets were sold in chapter 7 liquidation, all of the proceeds would go to pay priority tax claims, Chapter 7 administrative claims, bankruptcy fees, and a lesser portion of EKD Secured Claim and Amadeus Secured Claims, with no payments to other creditors lower priority creditors with respect to EKD and Amadeus. As such, the Debtors believe that no Creditors would receive a distribution in a Chapter 7 case which is greater than the one they may be entitled to under the Plan.

The Debtors further believe that the net effect of a conversion of this case to Chapter 7 would be to (i) increase the administrative expenses of the estate and (ii) decrease the funds available for non-administrative creditors.

The liquidation values stated herein assume that all assets of the Debtors would be liquidated in the context of a chapter 7 case and assumes the present values of such liquidation values as of October 2016. The assumptions utilized in the analysis considered the estimated liquidation value of the assets and estimated amount of Claims that would be allowed, together with an estimate of certain administrative costs and other expenses which would likely result during the liquidation process. While the Debtors believe the assumptions underlying the Liquidation Analysis are reasonable, the validity of such assumptions may be affected by the occurrence of events, and the existence of conditions not now contemplated or by other factors, many of which will be beyond the control of the Bankruptcy Court, the Debtors and any trustee appointed for the Debtors. The actual liquidation value of the Debtors may vary from that considered herein and the variations may be material.

### **EKD Liquidation Analysis**

Amadeus has assumed that the EKD Property would be sold within six months in a Chapter 7 liquidation. It is assumed that cash proceeds of liquidating the Property would total approximately \$4,275,000 (which is 75% of the estimated 5,700,000 scheduled value of the Amadeus Property)<sup>8</sup> taking into account the negative impact on values attributed to the Chapter 7 process.

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<sup>8</sup> Value based on [www.propertyshark.com](http://www.propertyshark.com) and subject to appraisal.

Upon consultation with its advisors, the Debtor assumes for the purposes of this analysis that the cash would be distributed as follows:

**Available for distribution** **\$4,275,000**  
**To the payment of:**

Chapter 7 Administrative Claims:

Chapter 7 trustee commissions and expenses (approximately 3% of \$4,875,000)	\$128,250
Chapter 7 trustee's professionals (attorneys, appraisers, auctioneers accountants, etc.)	\$40,000
EKD Secured Claim	\$5,581,731
Other Secured Claim	\$33,674
Priority Tax Claims	\$0
Chapter 11 Administrative Claims	\$55,635
General Unsecured Claims	\$514,879

In a liquidation, based on the value of the EKD Secured Claim, there would be insufficient funds to satisfy: (1) all of the Debtor's secured creditors (absent an agreement or court order); (2) chapter 11 administrative claims; (3) priority claims; and (4) unsecured claims.

**Amadeus Liquidation Analysis**

Amadeus has assumed that the Amadeus Property would be sold within six months in a Chapter 7 liquidation. It is assumed that cash proceeds of liquidating the Property would total approximately \$3,450,000 (which is 75% of the estimated \$4,600,000 value of the Amadeus Property)<sup>9</sup> taking into account the negative impact on values attributed to the Chapter 7 process.

Upon consultation with its advisors, the Debtor assumes for the purposes of this analysis that the cash would be distributed as follows:

**Available for distribution** **\$3,450,000**  
**To the payment of:**

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<sup>9</sup> Value based on www.propertyshark.com and subject to appraisal.

Chapter 7 Administrative Claims:

Chapter 7 trustee commissions and expenses (approximately 3% of \$3,450,000)	\$103,500
Chapter 7 trustee's professionals (attorneys, appraisers, auctioneers accountants, etc.)	\$30,000
Amadeus Secured Claim	\$3,657,870
Other Secured Claim	\$0.00
Priority Tax Claims	\$49,279.55
Chapter 11 Administrative Claims	\$18,672
General Unsecured Claims	\$257,424

In a liquidation, based on the value of the Amadeus Secured Claim, there would be insufficient funds to satisfy: (1) all of the Debtor's secured creditors (absent an agreement or court order); (2) chapter 11 administrative claims; (3) priority claims; and (4) unsecured claims.

The Plan contemplates payment to more classes of creditors than in a chapter 7 liquidation where there would insufficient funds to satisfy all of the Debtors' creditors. Accordingly, the Debtors believes that the Plan provides Creditors with at least as much as they would be entitled to receive in a chapter 7 liquidation.

**Feasibility.** For the Plan to be confirmed, it must be demonstrated that consummation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. The Plan is premised on the notion that the Debtors will be able to pay the EKD Secured Claim and Amadeus Secured Claim by January 15, 2017 with the Debtor's principals to provide the Contribution Amount to pay Unsecured Claims. If the Debtors are unable to do this, then the EKD Amadeus Property shall be sold to satisfy its Claims and Interests and either Amadeus Claims and Interests shall be satisfied with remaining EKD Sales Proceeds along with a possible combination of additional financing or a sale of the Amadeus Property.

Based on the Summary of the Plan, regardless of the implementation, the Plan meets the feasibility requirements of the Bankruptcy Code.

**Confirmation With the Acceptance of Each Impaired Class.** The Plan may be Confirmed if each impaired Class of Claims accepts the Plan. Classes of Claims which are not impaired are deemed to have accepted the Plan. A Class is impaired if the legal, equitable or

contractual rights attaching to the Claims of that Class are modified other than by curing defaults and reinstating maturities or by payment in full in cash.

Holders of Claims impaired by the Plan are entitled to file Ballots accepting or rejecting the Plan. Holders of Claims not impaired by the Plan, are deemed to accept the Plan, and may not vote to accept or reject the Plan. Holders of Claims that will neither receive nor retain any property under the Plan are deemed to reject the Plan.

The Bankruptcy Code defines acceptance of a plan by a Class of Claims as acceptance by the holders of two-thirds in dollar amount and a majority in number of Claims of that Class. Only those Claims, the holders of which actually vote to accept or reject the Plan, are counted for the purpose of determining whether the requisite number and amount of acceptances have been received.

**Confirmation Without the Acceptance of Each Impaired Class.** In the event that any impaired Class of Claims does not accept the Plan, the Bankruptcy Court may nevertheless confirm the Plan at the Debtor's request if (i) all other requirements of section 1129(a) of the Bankruptcy Code are satisfied, (ii) at least one impaired Class of Claims votes to accept the Plan without regard to any vote cast on account of a Claim held by "insiders" (as defined in the Bankruptcy Code) and (iii) as to each impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such non-accepting Class. The Debtors believe that the Plan is in the best interest of all Creditors and strongly recommends that all parties entitled to vote cast their ballots in favor of accepting the Plan. Nevertheless, out of an excess of caution, pursuant to the Plan, the Debtors have requested that the Court confirm the Plan over the rejection of any non-accepting class in the event all other elements of section 1129(a) are satisfied.

A plan "does not discriminate unfairly" if the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are intertwined with those of the non-accepting class, and no class receives payments in excess of that which it is legally entitled to receive for its Claims. The Debtors believe that under the Plan all classes of Impaired Claims are treated in a manner that is consistent with the treatment of other classes of Claims with which their legal rights are intertwined, if any, and no class of Claims will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims in such class. Accordingly, the Debtors believe the Plan does not discriminate unfairly as to any impaired class of Claims.

Whether the Plan is fair and equitable depends upon the application of the so-called "absolute priority rule." Subject to certain exceptions, this rule, codified in section 1129(b)(2) of the Bankruptcy Code, generally requires that an impaired Class of Claims that has not accepted the Plan must be paid in full if a more junior class receives any distribution under the Plan.

With respect to Secured Claims, the absolute priority rule allows the confirmation of a Plan over the rejection of a class of Secured Claims if the holders of such Claims retain their liens and each holder of a Claim of such class receives on account of such Claim deferred cash payments, totaling at least the allowed amount of such Claim, of a value, as of the EKD Effective Date and Amadeus Effective of the Plan, of at least the value of such holder's interest in the property securing its Claim. The Debtors' impaired Secured Creditor, Nautilus, will retain its lien on the Amadeus Property and EKD Property and will receive on account of its claim deferred Cash payments totaling at least the allowed amount of its claim, of a value, as of the EKD Effective Date, at least the value of Nautilus' interest in the Amadeus Property and EKD Property.

With respect to Unsecured Claims, the absolute priority rule allows the confirmation of a Plan over the rejection of a class of Unsecured Claims if the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the Plan on account of such junior claim or interest any property. The Holders of Class 4 Claims will be paid in full.

If the Plan is rejected by Classes A2 or A4 with respect to Amadeus and Classes B2 and B4 with respect to EKD, the Debtors request that the Plan be confirmed under section 1129(b).

#### EFFECT OF CONFIRMATION

##### INJUNCTION

**Except (i) as otherwise provided in the Plan or (ii) in any Final Order, all persons who have held, hold, or may hold Claims against, or Interests in, the Debtor that arose before or were held as of the EKD Effective Date as it applies to EKD and the Amadeus Effective Date as it applies to Amadeus, are permanently enjoined, on and after the EKD Effective Date and Amadeus Effective Date, from the commencement or continuation of any action, the employment of process, from taking any act to collect, enforce, attach, recover or offset against such claim and taking any act to create, perfect or enforce any lien or encumbrance against property of the Estates retained by the Reorganized Debtors or distributed to Creditors under this Plan.**

##### RELEASE

**Except as otherwise provided in the Plan, upon the EKD Effective Date as it applies to EKD and the Amadeus Effective Date as it applies to Amadeus, in consideration of the Cash and other property to be distributed to or on behalf of the holders of Claims and Interests under the Plan, the Plan shall be deemed to resolve all disputes and constitute a settlement and release, between and among the Debtors, on the one hand, and each Creditor and Interest Holder, on the other, from any claim or liability, whether legal, equitable, contractual, secured, unsecured, liquidated, unliquidated, disputed, undisputed,**

matured, unmatured, fixed or contingent, known or unknown, that the Debtors, their Creditors or Interest Holders ever had or now have through the EKD Effective Date and Amadeus Effective Date in connection with their Claim or Interest (including, without limitation, any claims the Debtors may assert on its own behalf or on behalf of Creditors or Interest Holders pursuant to sections 510 and 542 through 553 of the Bankruptcy Code, any claims Creditors or Interest Holders may have asserted derivatively on behalf of the Debtors absent bankruptcy, any claims based on the conduct of the Debtors' business affairs prior or subsequent to the commencement of the Case or any claims based on the negotiation, submission and confirmation of the Plan), provided however that nothing in the Plan or the Confirmation Order shall effect a release of any claim for any debt owed to the United States Government arising under the Internal Revenue Code; any state, city or municipality arising under any state, city or municipal tax code; any environmental laws or any criminal laws of the United States or any state, city or municipality. Nothing in the Confirmation Order or the Plan shall enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Released Parties for any claim, suit or action arising under the Internal Revenue Code, any state, city or municipal tax code, the environmental laws or any criminal laws of the United States or any state, city or municipality. Nothing in the Confirmation Order or the Plan shall exculpate any party from any liability to the United States Government or any of its agencies or any state, city or municipality arising under the Internal Revenue Code, any state, city or municipal tax code, the environmental laws or any criminal laws of the United States or any state.

#### LIMITATION OF LIABILITY

Section 1125(e) of the Bankruptcy Code, commonly referred to as the "safe harbor," protects persons acting in good faith, from civil claims arising in connection with solicitations of acceptances of plans of reorganization or participating in the offer, issuance, sale or purchase of a security under the Plan. Pursuant to section 1125(e), as set forth in Article 8 of the Plan, neither the Debtors, the Interest Holders nor any of their respective officers, directors, members, general partner, managers or employees (acting in such capacity), nor any professional person employed by any of them, if an, (the "Released Parties") shall have or incur any liability to any entity for any action taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, Confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into, or any other action taken or omitted to be taken in connection with these cases or the Plan except in the case of fraud, gross negligence, willful misconduct, malpractice, breach of fiduciary duty, criminal conduct, unauthorized use of confidential information that causes damages, or ultra vires acts. Nothing contained herein shall limit the liability of the Debtor's professionals pursuant to Rule 1.8(h)(1) of the New York State Rules of Professional Conduct. From and after the EKD Effective Date and Amadeus Effective Date, a copy of the Confirmation Order and the Plan shall constitute, and may be submitted as, a complete defense to any claim or liability released pursuant to Article 8 of the Plan.

### **ALTERNATIVES TO THE PLAN**

If the Plan is not confirmed by the Bankruptcy Court, the alternatives may include (a) liquidation of the Debtors under chapter 7 of the Bankruptcy Code; (b) the formulation, promulgation and confirmation of an alternative plan of reorganization involving a sale; or (c) dismissal of the Debtors' Cases. In the case of dismissal, Nautilus would be allowed to proceed with the foreclosure litigation against both Amadeus and EKD.

The Debtors believe that the Plan provides a recovery to all Creditors equal to or greater than would be obtainable in a chapter 7 liquidation. See Liquidation Analysis.

The Debtors believe that the Plan enables Creditors to realize the most value under the circumstances.

### **CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

The following summary of certain U.S. Federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the particular circumstances pertaining to each holder of an Allowed Claim. Each holder of an Allowed Claim is urged to consult his own tax advisors. This summary does not cover all potential U.S. federal income tax consequences that could possibly arise under the Plan and does not address the Plan's U.S. federal income tax consequences for any holder of an Allowed Claim that is a partnership (or other pass-through entity) or otherwise subject to special tax rules.

The Debtors have not requested any ruling from the Internal Revenue Service or any other taxing authority with respect to such matters nor will the Debtor, with respect to the federal income tax consequences of the Plan, obtain any opinion of counsel. Consequently, there can be no assurance that the treatment set forth in the following discussion will be accepted by the IRS. The Debtors offer no statements or opinions that are to be relied upon by the creditors as to the treatment of creditors' claims under the Plan. Matters not discussed in this Disclosure Statement may affect the tax consequences of the Plan on any particular holder of a Claim or Equity Interest

This summary is based upon the laws in effect on the date of this Disclosure Statement and existing judicial and administrative interpretations thereof, all of which are subject to change, possibly with retroactive effect. Holders of Allowed Claims should consult their own tax advisors as to the Plan's specific federal, state, local and foreign income and other tax consequences.

The tax consequences to Creditor and Interest Holders will differ and will depend on factors specific to each Creditor and Interest Holder, including but not limited to: (i) whether the Claim or Interest (or portion thereof) constitutes a claim for principal or interest; (ii) the origin of the Claim or Interest; (iii) the type of consideration received by the Creditor and

Interest Holder in exchange for the Claim; (iv) whether the Creditor and Interest Holder is a United States person or foreign person for tax purposes; (v) whether the Creditor and Interest Holder reports income on the accrual or cash basis method; (vi) whether the Creditor and Interest Holder has taken a bad debt deduction or otherwise recognized loss with respect to a Claim.

**THERE ARE MANY FACTORS WHICH WILL DETERMINE THE TAX CONSEQUENCES TO EACH CREDITOR AND INTEREST HOLDER. FURTHERMORE, THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX, AND IN SOME CASES, UNCERTAIN. THEREFORE IT IS IMPORTANT THAT EACH CREDITOR AND INTEREST HOLDER OBTAIN HIS, HER OR ITS OWN TAX ADVICE REGARDING THE TAX CONSEQUENCES TO SUCH CREDITOR AND INTEREST HOLDER AS A RESULT OF THE PLAN.**

**THE DISCUSSION HEREIN IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY CREDITOR AND INTEREST HOLDER FOR THE PURPOSE OF AVOIDING TAX PENALTIES THAT MAY BE IMPOSED ON A TAX PAYER. THE DISCUSSION HEREIN WAS WRITTEN TO SUPPORT THE TRANSACTIONS DESCRIBED IN THIS DISCLOSURE STATEMENT. EACH CREDITOR AND INTEREST HOLDER SHOULD SEEK ADVICE BASED UPON THE CREDITOR AND INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

#### **ADDITIONAL INFORMATION**

Requests for information and additional copies of this Disclosure Statement, the Ballots and the other materials delivered together herewith and all deliveries, correspondence and questions, as the case may be, relating to the Plan should be directed to (i) the Debtors' counsel, Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: Robert M. Sasloff, Esq. (212) 603-6329.

Copies of all pleadings, orders, lists, schedules, proofs of claims or other documents submitted in these cases are on file in the Office of the Clerk of the United States Bankruptcy Court at One Bowling Green, New York, New York, and are available for public inspection Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m. and are also available for viewing on the Internet at <http://www.nysb.uscourts.gov>.



**CONCLUSION**

The Debtors believe the Plan is in the best interests of all Creditors and strongly encourages all holders of Claims against the Debtors to vote to accept the Plan and to evidence such acceptance by promptly returning their Ballots to ensure that they will be received not later than 5:00 p.m., Eastern Standard Time, on December 21, 2016

**DATED:** New York, New York  
November 23, 2016

**ROBINSON BROG LEINWAND GREENE  
GENOVESE & GLUCK P.C.**

**Attorneys for the Debtors**  
875 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10022  
Tel. No.: (212) 603-6300

**By: S/ A. Mitchell Greene**  
**A. Mitchell Greene**