

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: § Chapter 11
§
NEXTMEDIA GROUP, INC., *et al.*, § Case No. 09-_____ (____)
§
Debtors. § Joint Administration Pending

**DEBTORS' APPLICATION FOR ORDER PURSUANT TO 28 U.S.C.
§ 156(c) AND DEL. BANKR. L.R. 2002-1(f) AUTHORIZING AND APPROVING THE
APPOINTMENT OF BMC GROUP, INC. AS NOTICING, CLAIMS AND
BALLOTING AGENT, EFFECTIVE AS OF THE PETITION DATE**

NextMedia Group, Inc. ("NextMedia") and its affiliated debtors in the above-captioned chapter 11 cases (collectively, the "Debtors"),¹ for their Application (the "Application") for Order Pursuant to 28 U.S.C. § 156(c) and Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") Authorizing and Approving the Appointment of BMC Group, Inc. ("BMC") as Noticing, Claims and Balloting Agent, Effective as of the Petition Date, respectfully represent:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The Debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: NextMedia Group, Inc. ("NM Group") (0791), NextMedia Investors LLC ("NM Investors") (9403), NextMedia Operating, Inc. ("NM OpCo") (5397), NM Licensing LLC (5396), NextMedia Outdoor, Inc. (5398), NM Texas, Inc. (4229), NextMedia Northern Colorado, Inc. (8422), NextMedia Franchising, Inc. (9913) and NextMedia Outdoor, LLC (9700). The Debtors' corporate headquarters are located at 6312 S. Fiddler's Green Circle, #205E, Greenwood Village, Colorado, 80111.

INTRODUCTION

3. On December 21, 2009 (the "Petition Date"), each of the Debtors filed with this Court a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

4. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are operating their businesses and managing their properties as debtors in possession. Concurrently with the filing of this Application, the Debtors have requested that their cases be jointly administered.

5. No official committee, trustee or examiner has been appointed.

BACKGROUND

6. The Debtors provide out-of-home media services through radio broadcasting and outdoor advertising.² As of the Petition Date, the Debtors operate an aggregate of thirty six (36) AM and FM radio stations in a total of seven (7) rated and unrated small, mid-size and suburban markets, including the Greenville-New Bern-Jacksonville, North Carolina area; the Saginaw-Bay City-Midland, Michigan area; Canton, Ohio; Myrtle Beach, South Carolina; San Jose, California; suburban Chicago; and suburban Dallas. In the majority of these markets, the Debtors own and operate clusters of radio stations and target diverse demographic groups through a broad range of programming formats, including rock, adult contemporary, oldies, sports/news/talk, and country. In each of the radio markets served, the Debtors also provide radio broadcast advertising services to local, regional and national advertising customers.

² NextMedia Investors LLC has no liabilities or operations. Its only asset is its equity interest in NextMedia Group, Inc. Thus, all references to the Debtors' operations and business do not include NextMedia Investors LLC. NM Texas, Inc. has no assets, liabilities or operations.

7. The Debtors' outdoor advertising business consists of approximately 5,200 display faces in the form of traditional outdoor advertising bulletins and posters affixed to billboard structures, bus stop shelters and building wall displays. While many of the Debtors' outdoor advertising displays are located on leased premises, in certain circumstances a Debtor either owns the premises on which its displays are located, or it relies upon easements to use the property. The Debtors' six (6) outdoor advertising markets consist of the following geographic areas: the surrounding areas of San Francisco, California; Myrtle Beach, South Carolina; Green Bay, Wisconsin; Northern Colorado (including the areas in and around Cheyenne, Wyoming, Western Kansas and Nebraska), and the States of Virginia and North Carolina.

8. The Debtors are headquartered in Greenwood Village, Colorado, and currently have just under 500 employees (part-time and full-time) in at least thirteen (13) markets across the United States.

9. Additional information concerning the Debtors, their capital and debt structure, and the events leading up to the commencement of these chapter 11 cases is contained in the Declaration of Eric W. Neumann In Support of Chapter 11 Petitions and First Day Motions (the "Neumann Declaration"), filed simultaneously herewith.

RELIEF REQUESTED

10. By this Application, pursuant to 28 U.S.C. § 156(c) and Local Rule 2002-1(f), the Debtors request entry of an Order authorizing and approving the appointment of BMC as noticing, claims and balloting agent (the "Noticing, Claims and Balloting Agent") as of the Petition Date to, among other things: (i) serve as the Court's noticing agent to mail certain notices to the Debtors' creditors and parties in interest; (ii) provide computerized claims, claims objection and balloting services; and (iii) provide expertise, consultation, and assistance in claim

and ballot processing and other administrative information related to the Debtors' bankruptcy cases.

11. In support of this Application, the Debtors submit the Declaration of Tinamarie Feil, President of BMC (the "Feil Declaration"), attached hereto as Exhibit "A".

BASIS FOR RELIEF

12. Pursuant to 28 U.S.C. § 156(c), the Court is empowered to utilize outside agents and facilities to send notices and perform other tasks, provided that the costs of these facilities and services are paid for out of the assets of the Debtors' estates.³ Additionally, Local Rule 2002-1(f) requires a debtor to file a motion to appoint a notice and/or claims agent within ten (10) days of the petition date in all cases that have in excess of two hundred (200) creditors.

13. The Debtors have well in excess of two hundred (200) creditors in these chapter 11 cases. The Debtors expect many creditors to file proofs of claim. It appears that the noticing, receiving, docketing, and maintaining of proofs of claim in this volume would be unduly time consuming and burdensome for the Clerk's Office. In addition, the Debtors believe that there are many additional parties in interest who should receive notice of various matters in these cases.

14. Accordingly, the Debtors seek the entry of any order authorizing and approving the appointment of BMC as Noticing, Claims and Balloting Agent to perform the services described herein.

³ 28 U.S.C. § 156 provides, in relevant part, as follows:

(c) Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate

28 U.S.C. § 156(c).

15. BMC has substantial experience in the matters upon which it is to be engaged. It is one of the country's leading chapter 11 administrators with vast experience in noticing, claims processing, claims reconciliation, balloting and distributions. BMC specializes in noticing, claims agent and balloting services, and has a proprietary claims management system in which claims are effectively managed for the Clerk's Office. The Debtors have selected BMC as their Noticing, Claims and Balloting Agent because of the firm's experience in serving in such capacity in chapter 11 cases of this size and the reasonableness of its fees.

16. By appointing BMC as the Noticing, Claims and Balloting Agent in these chapter 11 cases, parties in interest will benefit from BMC's significant experience and the efficient and cost-effective methods that it has developed.

A. Services to be Provided

17. Subject to the Court's approval, BMC has agreed to provide, at the request of the Debtors or the Clerk's Office, the following services, among others, in these cases:

- a. Prepare and serve required notices in these chapter 11 cases, including, as necessary:
 - (i) notice of the commencement of these chapter 11 cases and, if held, the initial meeting of creditors under section 341(a) of the Bankruptcy Code;
 - (ii) notice of the claims bar date;
 - (iii) notice of objections to claims;
 - (iv) notice of any hearings on a disclosure statement and confirmation of a plan of reorganization;
 - (v) other miscellaneous notices to any entities as the Debtors or the Court may deem necessary or appropriate for an orderly administration of these chapter 11 cases; and
 - (vi) the publication of required notices, as necessary;

- b. Within ten (10) days after the mailing of a particular notice, file with the Clerk's Office a certificate or affidavit of service that includes a copy of the notice involved, a list of persons to whom the notice was mailed, and the date and manner of mailing;
- c. Maintain copies of all proofs of claim and proofs of interest filed;
- d. Maintain an official claims register by docketing all proofs of claim on a register containing certain information, including, but not limited to, the following:
 - (i) the name and address of the claimant and any agent thereof;
 - (ii) the date received;
 - (iii) the claim number assigned;
 - (iv) the asserted amount and classification of the claim (if applicable); and
 - (v) pertinent comments concerning disposition of claims;
- e. Create and administer a claims database;
- f. Maintain the original proofs of claim in correct claim number order, in an environmentally secure area, and protecting the integrity of these original documents from theft and/or alteration;
- g. Implement necessary security measures to ensure the completeness and integrity of the claims register;
- h. Transmit to the Clerk's Office a copy of the claims register on a monthly basis (unless requested on a more or less frequent basis) or, in the alternative, make available the Proof of Claim docket online to the Clerk's Office via the Claims Manager Claims System;
- i. Maintain an up to date mailing list of all entities that have requested service of pleadings in these cases and a master service list of creditors and other parties in interest and all entities that have filed a proof of claim or proof of interest, which lists shall be available upon request of the Clerk's Office;
- j. Provide access to the public for examination of copies of the proofs of claim or proofs of interest filed in these cases without charge during regular business hours;

- k. Record all transfers of claims pursuant to Rule 3001(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and provide notice of such transfers as required by Bankruptcy Rule 3001(e);
- l. Assist the Debtors in the reconciliation and resolution of claims;
- m. Maintain court orders concerning claims resolution;
- n. Comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders and other requirements;
- o. Provide temporary employees to process claims, as necessary;
- p. Provide balloting services in connection with the solicitation process for any chapter 11 plan for which the court has approved a disclosure statement;
- q. Make all original documents available to the Clerk’s Office upon request on an expedited immediate basis;
- r. Provide such other claims processing, noticing, and related administrative services as may be requested from time to time by the Debtors; and
- s. Promptly comply with such further conditions and requirements as the Clerk’s Office or the Court may at any time prescribe.

18. In connection with its appointment as Noticing, Claims and Balloting Agent, BMC represents, among other things, that:

- a. BMC will not consider itself employed by the United States and shall not seek any compensation from the United States in its capacity as Noticing, Claims and Balloting Agent in these chapter 11 cases;
- b. By accepting appointment in these chapter 111 cases, BMC waives any rights to receive compensation from the United States;
- c. In its capacity as the Noticing, Claims and Balloting Agent in these chapter 11 cases, BMC will not be an agent of the United States and will not act on behalf of the United States;
- d. In its capacity as the Noticing, Claims and Balloting Agent in these chapter 11 cases, BMC will not misrepresent any fact to any person; and
- e. BMC will not employ any past or present employees of the Debtors in connection with its work as the Noticing, Claims and Balloting Agent in these chapter 11 cases.

B. Terms of Compensation

19. Subject to the Court's approval, BMC will provide the services set forth above pursuant to the terms of the engagement letter dated December 16, 2009 (the "Engagement Letter"), which is attached hereto as Exhibit "B".

20. The Debtors request authority to compensate and reimburse BMC in accordance with the payment terms of the Engagement Letter for all services rendered and expenses incurred in connection with the Debtors' chapter 11 cases. The Debtors and BMC have agreed (subject to the Court's authorization hereof) that BMC shall invoice the Debtors monthly for services rendered to the Debtors during the preceding month. Under the Engagement Letter, the Debtors paid BMC a retainer of \$10,000.00 to be applied immediately in satisfaction of the Debtors' obligations under the Engagement Letter.⁴

21. The Debtors believe that such terms are reasonable and appropriate for services of this nature and comparable to those charged by other providers of similar services.

22. In an effort to reduce the administrative expenses related to BMC retention, the Debtors seek authorization to pay BMC's fees and expenses, as set forth in the Engagement Letter, without the necessity for BMC to file formal fee applications. If any dispute arises between the Debtors and BMC with respect to fees and expenses, such dispute shall be presented to the Court for resolution.

23. BMC acknowledges that it will perform its duties if it is retained in the Debtors' chapter 11 cases regardless of payment, and to the extent that BMC requires redress, it will seek appropriate relief from the Court.

⁴ The description of certain terms of the Engagement Letter as summarized by the Application is for the convenience of the Court. The agreement, and not any descriptions in the Application, shall be the governing document.

24. In connection with the reimbursement of actual and necessary expenses, it is BMC's policy to charge its clients for direct expenses incurred in connection with providing client services. These expenses and charges include postage, long distance telephone charges, hand delivery and other delivery charges, travel expenses, computerized research, transcription costs and third-party photocopying charges.

25. After considering its quality of performance in other cases, the Debtors have concluded that BMC is the best choice for Noticing, Claims and Balloting Agent in these cases. The Debtors believe that the Engagement Letter contemplates compensation at a level that is reasonable and appropriate for services of this nature and is consistent with BMC's compensation arrangement in other cases in which it has been retained to perform similar services. Subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules and orders of the Court, the Debtors propose to pay BMC its customary hourly rates for services rendered that are in effect from time to time, as set forth in the Engagement Agreement, and to reimburse BMC according to its customary reimbursement policies, and submits that such rates are reasonable.

C. Disinterestedness

26. To the best of the Debtors' knowledge, and based upon the Feil Declaration, neither BMC nor any of its officers or employees (i) holds or represents any interest adverse to the Debtors, the Debtors' creditors or any other party in interest or their respective attorneys and accountants, the United States Trustee or any person employed in the Office of the United States Trustee with respect to the services described herein and in the Engagement Letter, and (ii) does not hold or represent an interest adverse to the Debtors' estates.

27. Notwithstanding the foregoing, the Debtors hereby disclose to the Court, in connection with BMC's engagement by all of the Debtors, that there are certain interrelationships between and among the Debtors. The Debtors do not believe, however, that their relationships to one another post any conflict of interest in these chapter 11 cases because of their general unity of interest at all levels. Accordingly, the Debtors submit that BMC's engagement by all of the Debtors is permissible under the Bankruptcy Code and is in the best interests of all parties in interest. The Debtors firmly believe that BMC is appropriately qualified to serve as Noticing, Claims and Balloting Agent.

28. To the best of the Debtors' knowledge, BMC is a "disinterested person" as that term is defined in Bankruptcy Code section 101(14).

29. The Debtors have been advised that BMC will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or circumstances are discovered, BMC will supplement its disclosure to the Court.

30. The Debtors have been advised that, other than with its own partners, affiliates and employees, BMC has agreed not to share with any person or firm the compensation to be paid for professional services rendered in connection with these cases.

31. The Debtors have been advised by BMC that it will be responsive to all constituencies, including, without limitation, the Court, the Clerk's Office, the United States Trustee, the Debtors' attorneys, the members of, and attorneys for, the official committee of unsecured creditors, if any, and the claimants themselves. All transmission of documents by BMC to the Clerk's Office and the United States Trustee will be by hand delivery or priority overnight delivery.

32. If these cases were to convert from cases under chapter 11 of the Bankruptcy Code to cases under chapter 7 of the Bankruptcy Code, BMC has advised that it will perform its duties through the conversion process and shall continue its services as required, and BMC will continue to be paid in accordance with 28 U.S.C. § 156(c).

33. If BMC's services are terminated, BMC has advised the Debtors that it shall perform its duties until a complete transition with the Clerk's Office or any successor claims and noticing agent has been accomplished.

NOTICE

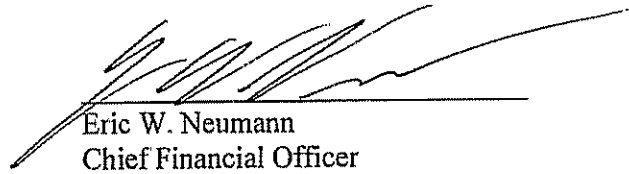
34. Notice of this Motion shall be provided to the office of the United States Trustee for the District of Delaware, the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis, counsel to the agents under Debtors' prepetition credit facilities, counsel to the Second Lien Lead Investors (as defined in the Neumann Declaration), and other parties requesting notice.

35. The Debtors respectfully submit that no other or further notice need be provided. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

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Respectfully submitted this 20th day of December, 2009.

**NEXTMEDIA GROUP, INC. AND ITS
RELATED ENTITIES, DEBTORS AND
DEBTORS IN POSSESSION**



Eric W. Neumann
Chief Financial Officer

Exhibit "A"
FEIL DECLARATION
IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: § Chapter 11
NEXTMEDIA GROUP, INC., *et al.*, §
§ Case No. 09-_____ (____)
§
Debtors. § Joint Administration Pending

**DECLARATION OF TINAMARIE FEIL IN SUPPORT OF THE DEBTORS'
APPLICATION FOR ORDER AUTHORIZING AND APPROVING THE
APPOINTMENT OF BMC GROUP, INC. AS NOTICING, CLAIMS
AND BALLOTING AGENT FOR THE BANKRUPTCY COURT**

Tinamarie Feil, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the President of BMC Group, Inc. ("BMC"), a firm whose services include a specialization in the administration of large bankruptcy cases with offices located at 600 First Avenue, Suite 300, Seattle, WA 98104 .

2. I submit this declaration (the "Declaration") in support of the application (the "Application") of NextMedia Group, Inc. and its above-captioned affiliated debtors and debtors in possession (collectively, the "Debtors") for entry of an order authorizing and approving the appointment of BMC as Noticing, Claims and Balloting Agent pursuant to the terms and conditions set forth in the Application and the engagement letter attached to the Application as

Exhibit “B” (the “Engagement Letter”).⁵ Except as otherwise noted, I have personal knowledge of the matters set forth herein.⁶

3. The services BMC proposes to render as Noticing, Claims and Balloting Agent are described in the Application and the Engagement Letter, which are incorporated herein by reference.

4. BMC is one of the country’s leading chapter 11 administrators with experience in providing claims management and related services to chapter 11 debtors in connection with the administration of a chapter 11 case, solicitation and tabulation of votes to accept or reject plans of reorganization, and noticing to parties in interest in a chapter 11 case. BMC also specializes and has expertise in serving as outside claims agent to the United States Bankruptcy Court with respect to all aspects of claims administration, including docketing and Storage of claims, maintenance of claims registers, and related noticing services. BMC has provided identical or substantially similar services to other chapter 11 debtors in other cases in this District, including, among others: In re: Alternative Distribution Systems, Inc., Case No. 09-13099(PJW), In re: NV Broadcasting, LLC, Case No. 09-12473(KG), and In re: Fleming Companies, Inc., Case No. 03-10945(MFW). Accordingly, I believe BMC is well-qualified to act as Noticing, Claims and Balloting Agent in these cases.

5. The compensation arrangement provided for in the Engagement Letter, including BMC’s hourly rates, is consistent with and typical of arrangements entered into by BMC and other such firms with respect to rendering similar services in other chapter 11 cases.

⁵ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.

⁶ Certain of the disclosures herein may relate to matters within the knowledge of other associates at BMC and are based on information provided by them.

6. In connection with the reimbursement of actual and necessary expenses, it is BMC's policy to charge its clients for direct expenses incurred in connection with providing client services. These expenses and charges include postage, long distance telephone charges, hand delivery and other delivery charges, travel expenses, computerized research, transcription costs, and third-party photocopying charges.

7. The Engagement Letter provides that the Debtors will pay BMC's fees and expenses upon the submission of monthly invoices by BMC that summarize, in reasonable detail, the services for which compensation is sought.

8. In connection with its appointment as Noticing, Claims and Balloting Agent, BMC represents, among other things, that:

- a. BMC will not consider itself employed by the United States and shall not seek any compensation from the United States in its capacity as Noticing, Claims and Balloting Agent in these chapter 11 cases;
- b. By accepting appointment in these chapter 11 cases, BMC waives any rights to receive compensation from the United States;
- c. In its capacity as the Noticing, Claims and Balloting Agent in these chapter 11 cases, BMC will not be an agent of the United States and will not act on behalf of the United States;
- d. In its capacity as the Noticing, Claims and Balloting Agent in these chapter 11 cases, BMC will not misrepresent any fact to any person; and
- e. BMC will not employ any past or present employees of the Debtors in connection with its work as the Noticing, Claims and Balloting Agent in these chapter 11 cases.

9. To the best of my knowledge, and based solely upon information provided to me by the Debtors, neither BMC nor any employee thereof, has any connection with the Debtors, their creditors or any other party in interest herein. BMC may have relationships with certain of the Debtors' creditors as vendors or in connection with cases in which BMC serves or has served in a neutral capacity as noticing, claims and balloting agent for another chapter 11 debtor. To the

best of my knowledge, such relationships are completely unrelated to these chapter 11 cases. In addition, BMC personnel may have relationships with some of the Debtors' creditors or other parties in interest. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal financial nature and completely unrelated to these chapter 11 cases. BMC has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, BMC has had and will continue to have relationships in the ordinary course of its business with certain vendors, professionals and other parties in interest that may be involved in the Debtors' case in matters unrelated to these cases. To the best of my knowledge, neither BMC nor any employees thereof, represents any interest adverse to the Debtors' estates with respect to any matter upon which BMC is to be engaged. Based on the foregoing, I believe that BMC is a "disinterested person" as that term is defined in 11 U.S.C. § 101(14), as modified by Bankruptcy Code section 1107(b).

10. At this time, we are not aware of any relationship which would present a disqualifying conflict of interest. To the extent BMC discovers any relationship, it will make appropriate disclosures to the Bankruptcy Court in a supplemental declaration.

11. Except with respect to its partners, affiliates and employees, there is no agreement or understanding between BMC and any other Party, or entity for sharing compensation received or to be received for services rendered by BMC in connection with these chapter 11 cases.

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

Executed this 19th day of December 2009.



Tinamarie Feil
President, Client Services

AGREEMENT FOR SERVICES

This Agreement dated as of December 16, 2009, is entered between NextMedia Group, Inc., NextMedia Investors LLC, NextMedia Operating, Inc., NM Licensing LLC, NextMedia Outdoor, Inc., NM Texas, Inc., NextMedia Northern Colorado, Inc., NextMedia Franchising, Inc. and NextMedia Outdoor, LLC (collectively, "Customer"), and BMC Group, Inc. ("BMC"). The services rendered by BMC pursuant to this Agreement will commence on the date first set forth above and will continue until the Agreement is terminated as set forth below.

TERMS AND CONDITIONS

I. SERVICES

In accordance with the terms and conditions contained in this Agreement and in the Fee Schedule annexed hereto, BMC agrees to provide services as follows: (a) assisting the Customer, Counsel and Office of the Clerk with noticing and claims docketing and (b) assisting Customer with the compilation, administration, evaluation and production of documents and information necessary to support a restructuring effort. At Customer's, Counsel's or the Clerk's Office's direction, as the case may be, and in accordance with any court orders or rules in the bankruptcy case(s) (including any court order authorizing BMC's engagement), BMC will (1) prepare and serve those notices required in the bankruptcy cases; (2) receive, record and maintain copies of all proofs of claim and proofs of interest filed in the bankruptcy cases; (3) create and maintain the official claims register(s); (4) receive and record all transfers of claims pursuant to Bankruptcy Rule 3001(e); (5) maintain an up-to-date mailing list for all entities who have filed proofs of claim and/or requests for notices in the bankruptcy cases; (6) print, mail and tabulate ballots for purposes of plan voting; (7) provide other technical and document management services of a similar nature requested by Customer or the Clerk's office and (8) other services as directed by Customer.

II. TECHNOLOGY SUPPORT

BMC agrees to provide computer software support and to educate and train Customer in the use of the support software, provide BMC's standard reports as well as consulting and programming support for Customer requested reports, program modifications, database modification, and/or other features.

III. PRICES, CHARGES AND PAYMENT

- A. BMC agrees to charge, and Customer agrees to pay, BMC's standard prices for its services, expenses and supplies at the rates or prices in effect on the day such services and/or supplies are provided to the Customer, in accordance with the Fee Schedule annexed hereto.
- B.
- C. BMC shall be provided with an advance payment retainer of \$10,000.00. BMC will be compensated at its stated rates for services rendered and reimbursed for necessarily incurred expenses.
- D. Wire transfer information for the transmission of payments is as follows:
- | | |
|-----------------|---|
| Bank Name - | Wells Fargo Bank |
| Address - | 933 3 rd Avenue, Seattle, WA 98104 |
| ABA/Routing # - | 121000248 |
| Account Name - | BMC Group, Inc. |
| Account # - | 0033022633 |
- E. BMC raises its rates from time to time and generally does so each January.
- F. Customer agrees to pay BMC for any necessarily incurred out-of-pocket reasonable expenses for transportation, lodging, meals and related items.

- G. In connection with noticing services, upon BMC's request, Customer agrees to prepay BMC estimated postage amounts with respect to each notice or shall authorize BMC to cause the courier's charges (such as UPS or FedEx) to be stated to Customer's own account with such courier.
- H. BMC agrees to invoice Customer for fees and expenses and Customer agrees that the amount invoiced is due and payable upon its receipt of the invoice. In the case of a dispute in the invoice amount, notice shall be given to BMC within twenty (20) days of receipt of the invoice by Customer. The balance of the invoice amount is due and payable in the normal course.
- I. BMC will look only to the Customer for payment of invoices and in no event shall Counsel be liable for any of BMC's invoices in connections with this Services Agreement.

IV. WARRANTY

The BMC warranty under the Agreement shall be limited to the re-running, at its expense, of any inaccurate reports, provided that such inaccuracies were caused solely as a result of BMC performance hereunder and provided further that BMC shall receive written notice of such inaccuracies within thirty (30) days of delivery of such report. If said notice is not made to BMC within the prescribed time limit Customer is liable for all charges. Customer agrees that the foregoing constitutes the exclusive remedy available with respect to inaccurate reports.

V. RIGHTS OF OWNERSHIP

- A. The parties understand that the software programs and other similar proprietary materials furnished by BMC pursuant to this Agreement and/or developed during the course of this Agreement by BMC are the sole property of BMC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, sub-routines, procedural manuals, and documentation. Customer agrees not to copy or permit others to copy for unauthorized use the source code from the support software or any other programs or similar proprietary materials furnished pursuant to this Agreement.
- B. Customer further agrees that any ideas, concepts, know-how or techniques relating to data processing or BMC's performance of its services developed during the course of its Agreement by BMC shall be exclusive property of BMC.
- C. Upon Customer's request at any time or times while this Agreement is in effect, BMC shall immediately deliver to Customer at Customer's sole expense, any or all of the non-proprietary data, information and records held or controlled by BMC pursuant to this Agreement, in the form requested by Customer. Any information, data and records, in whatever form existing, whether provided to BMC by Customer or developed by BMC for Customer under this Agreement, may be retained by BMC until all amounts due under this Agreement are paid in full, it being understood that neither party asserts rights of ownership in the official claims register or materials filed with BMC as an agent of the court.
- D. Customer shall remain liable for all charges imposed under this Agreement as a result of data or physical media maintained by BMC. BMC shall dispose of the data and media in the manner requested by Customer. Customer agrees to pay BMC for reasonable expenses incurred as a result of the disposition of the data or media. After giving Customer thirty (30) days advance notice, BMC reserves the right to dispose of data or media maintained by BMC for Customer if Customer has not utilized the services provided herein for a period of at least ninety (90) days or if Customer has not paid all charges due to BMC.

VI. NON-SOLICITATION

Customer agrees that it shall not, directly or indirectly, solicit for employment, employ or otherwise retain staff of BMC during the term of this Agreement, nor for a period of twelve (12) months after termination of this Agreement unless mutually agreed upon by both parties.

VII. CONFIDENTIALITY

- A. BMC agrees to, and shall cause its servants, agents, employees, licensees, and subcontractors to, safeguard and keep confidential all data, records, information and communications of any sort or form, regardless of whether written, oral, visual or otherwise recorded or transmitted, with respect to Customer, but excluding such data, records, information and communications that exist in the public domain by reason other than a breach of BMC's obligations under this Section VII "Confidentiality" (the "Confidential Information") BMC will use the Confidential Information only for the benefit of Customer in connection with the provision of services under this Agreement. Customer agrees to, and will cause its servants, agents, employees, licensees, and subcontractors to, keep all information with respect to BMC's system, procedures and software confidential; provided, however, that if either party is required to produce any such information by order of any governmental agency or other regulatory body, it may, upon not less than five business days' written notice to the other party, release the required information. The obligations set forth in this paragraph shall survive termination of this Agreement.

VIII. TERMINATION

- A. This Agreement shall remain in force until terminated by Customer, or, by BMC upon thirty (30) days' prior written notice to the other party.
- B. In the event that this contract is terminated, regardless of the reason for such termination, BMC shall cooperate with Customer to orderly transfer to Customer or its designee (or destroy, at Customer's direction) data, records and information in its possession or control and to effect an orderly transition of record-keeping functions. BMC shall provide all necessary staff, services and assistance required for an orderly transfer and transition. Customer agrees to pay for such services in accordance with BMC's then existing prices for such services.

IX. SYSTEM IMPROVEMENTS

BMC's policy is to provide continuous improvements in the quality of service to the Customer. BMC, therefore, reserves the right to make changes in operations procedures, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the BMC data center serving the Customer.

X. INDEMNIFICATION

Except with respect to breaches under Section VII "Confidentiality" above, Customer shall indemnify and hold BMC, its officers, employees and agents harmless against any losses, claims, damages, judgments, liabilities and expense (including reasonable counsel fees and expenses) resulting from action taken or permitted by BMC in good faith with due care and without negligence in reliance upon instructions or orders received from Customer as to anything arising in connection with its performance under this Agreement.

XI. NOTICES

All notices in connection with this Agreement shall be given or made upon the respective parties in writing by facsimile or overnight courier and shall be deemed as given, if by facsimile, on the business day immediately following confirmed transmission, or if by courier, on the day it is

delivered by such courier to the appropriate address set forth below:

BMC Group, Inc. Attn: Tinamarie Feil 600 1st Avenue, Suite 300 Seattle, WA 98104 Telephone 206 516 3300 Fax 206 516.3304	_NextMedia Group Inc.____ ____6312 S. Fiddlers Green Cr. #205E_ Greenwood Village, CO 80111 Telephone __303.694.4511_ Fax __303 800 4949_
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Or to such other address as the party to receive the notice or request so designates by written notice to the other.

XII. APPLICABLE LAW

This agreement shall be construed in accordance with the laws of the State of Washington and may be modified only by a written instrument duly executed by an authorized representative of Customer and an officer of BMC

XIII. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings and other agreements, oral and written between the parties relating to the subject matter of this Agreement. The Agreement may not be modified or altered by written instrument duly executed by both parties. Customer represents that it has the authority to enter into this Agreement, may be subject to bankruptcy court approval, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. In the event of any conflict between a term of this Agreement and any order of the court exercising jurisdiction over the Customer bankruptcy cases, the term of the order shall govern.

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XIV. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned by BMC to a wholly owned subsidiary of BMC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

BMC Group, Inc.
By: *Tinamarie Feil*
Name: Tinamarie Feil
Title: President, Client Services
Date: December 16, 2009

NextMedia Group, Inc ,
NextMedia Investors LLC,
NextMedia Operating, Inc. ,
NM Licensing LLC,
NextMedia Outdoor, Inc ,
NM Texas, Inc. ,
NextMedia Northern Colorado, Inc. ,
NextMedia Franchising, Inc.
NextMedia Outdoor, LLC

By: *[Signature]*
Name: _____
Title:
Date. December 17, 2009

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	§	Chapter 11
	§	
NEXTMEDIA GROUP, INC., <i>et al.</i> ,	§	Case No. 09-_____ (____)
	§	
Debtors.	§	Joint Administration Pending

**ORDER PURSUANT TO 28 U.S.C. § 156(c) AND DEL. BANKR. L.R. 2002-1(f)
AUTHORIZING AND APPROVING THE APPOINTMENT OF
BMC GROUP, INC. AS NOTICING, CLAIMS AND BALLOTING AGENT
EFFECTIVE AS OF THE PETITION DATE**

Upon the Debtors' Application (the "Application") Pursuant to 28 U.S.C. § 156(c) and 2002-1(f) for Order Authorizing and Approving the Appointment of BMC Group, Inc. ("BMC") as Noticing, Claims and Balloting Agent, Effective as of the Petition Date; and upon the Feil Declaration and the Engagement Letter;¹ and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and this matter presenting a core proceeding under 28 U.S.C. § 157(b)(2); and it appearing that BMC and each of its employees represent no interest adverse to the Debtors estates such that would disqualify BMC from representation of the Debtors in these chapter 11 cases; and it appearing that BMC is a "disinterested person" as such term is defined in section 101(14) of the Bankruptcy Code; and it appearing that notice of the Application is sufficient under the circumstances, and that no other or further notice need be provided; and it appearing that the relief requested in the Application is in the best interests of the Debtors, their estates and their creditors; and after due deliberation and good cause appearing therefor, it is hereby

ORDERED that the Application be, and it hereby is, granted; and it is further

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.

ORDERED that BMC is hereby appointed as Noticing, Claims and Balloting Agent in these chapter 11 cases pursuant to 28 U.S.C. § 156(c); and it is further

ORDERED that BMC's engagement shall be pursuant to the terms set forth in the Application and the Engagement Letter, and BMC shall be compensated as is stated therein; and it is further

ORDERED that BMC is hereby directed to perform the services described in the Application and the Engagement Letter; and it is further

ORDERED that the Debtors are authorized to pay BMC fees and expenses upon the submission by BMC of monthly invoices to the Debtors describing, in reasonable detail, the services for which compensation is sought, in accordance with the Engagement Letter attached to the Application as Exhibit "B"; provided, however, that the U.S. Trustee and any official committee appointed in this case, if any (collectively, the "Notice Parties"), shall be provided copies of all of BMC invoices and shall have a period of ten (10) days to object to the amount of such invoice prior to the Debtors' payment of such amounts or such shorter time as agreed to by the Notice Parties; and it is further

ORDERED that any dispute with respect to the fees and expenses by BMC shall be brought before this Court for a final determination; and it is further

ORDERED that upon the closing of these chapter 11 cases, BMC shall return all proofs of claim received by it and the official claims registry to the Clerk's Office; and it is further

ORDERED that this Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or related to the implementation and interpretation of this Order.

Dated: December ____, 2009
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE