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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

METRO NEWSPAPER ADVERTISING  
SERVICES, INC.

Chapter 11  
Case No. 17-22445 (RDD)

Debtor.

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**DISCLOSURE STATEMENT FOR DEBTOR'S CHAPTER 11 LIQUIDATING PLAN**

**I. INTRODUCTION**

Metro Newspaper Advertising Service Inc. (the "Debtor") submits this Disclosure Statement pursuant to Section 1125(b) of Title 11, United States Code, 11 U.S.C. §§ et seq. (the "Bankruptcy Code") and Rule 3017 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), in connection with its Chapter 11 Liquidating Plan dated October 2, 2017 (the "Plan") to all known holders of Claims against or Interests in the Debtor in order to adequately disclose information deemed to be material, important and necessary to make a reasonably informed judgment about the Plan, including, who is entitled to vote to accept or reject the Plan. A full copy of the Plan is attached to this Disclosure Statement as Exhibit "A". *Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.*

Under Section 1126(b) of the Bankruptcy Code, only Classes<sup>1</sup> of Allowed Claims that are “impaired” under the Plan, as defined by Section 1124 of the Bankruptcy Code, are entitled to vote on the Plan. Generally, a Class is impaired if its legal, contractual or equitable rights are altered or reduced under the Plan. Under the Plan, Class 3 is Impaired and therefore entitled to vote to accept or reject the Plan. Class 4 Interests are Impaired and deemed to reject the Plan. To be accepted by a Class, the Plan must be accepted by more than one half in number and two-thirds in dollar amount of the Allowed Claims actually voting in such Class.

#### **A. Purpose of This Document**

##### **This Disclosure Statement describes:**

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

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

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<sup>1</sup> Capitalized terms not defined herein have the same meaning ascribed to them in the Plan.

## **B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing**

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

### *1. Time and Place of the Hearing to Confirm the Plan*

The hearing at which the Court will determine whether to confirm the Plan will take place on **December \_\_, 2017 at 10:00 a.m.** before the Honorable Robert D. Drain, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, New York 10601.

### *2. Deadline For Voting to Accept or Reject the Plan*

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot to DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq. See Section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by **December , 2017 at 4:00 p.m. (Eastern Time)** or it will not be counted.

### *3. Deadline For Objecting to the Confirmation of the Plan*

Objections to the confirmation of the Plan must be filed with the Court and served upon DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq by **December , 2017 at 4:00 p.m. (Eastern Time).**

*4. Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq. (914) 681-0200.

**C. Disclaimer**

*The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.*

**II. BACKGROUND**

**A. Description of the Debtor and Events Leading to Bankruptcy**

The Debtor, initially formed by members of the newspaper industry in 1932, was a national newspaper planning and buying agency which services national advertisers in both traditional print and digital newspaper platforms. The Debtor serviced more than eighty (80) advertising agencies and over 200 major national advertisers.

The Debtor had four core lines of business: newspaper ads-on-page (approximately 60% of gross revenues); free standing inserts (approximately 30% of gross revenues); Hispanic and multicultural; and digital (collectively, approximately 10% of gross revenues). The Debtor's parent company, Gemini Communications Inc. also owns a technology based proprietary print planning system known as *Metro NDX* which is licensed to customers as well as utilized by the

Debtor as an additional tool for its clients. All of the license and consulting fees which are generated by *Metro NDX* are contributed to the Debtor just as all of the expenses associated with the operation of the product are borne by the Debtor.

The Debtor enjoyed great success for over a decade with the height of its business peaking in pre-recession 2008 at \$150 million in annual gross revenues and over its history, has placed over \$700 million advertising dollars in the newspaper industry. Unfortunately, along with the entire newsprint and media industry, the Debtor has seen a steady decline since that point, as has the entire newspaper industry. In 2016, the Debtor's annual revenues were approximately \$52 million dollars which was down from \$60 million in 2015. This was attributable to the loss of three (3) large clients simply due to the client's change of its agency to one which does not place its business through the Debtor.

In 2015, in order to combat cash flow and working capital shortages, the Debtor secured an asset based loan which had the opposite of the intended result. The lender was constantly restricting the Debtor's use of cash and requiring pay downs which left little to no working capital for operations. Faced with no choice, the Debtor was forced in 2016 to look for replacement financing which it found with its present factor, Versant Funding LLC ("Versant"). While the factoring arrangement has proved to be a better financing vehicle for the Debtor's business, the time spent trying to comply with the prior lender's ever changing requirements and requests for information, followed by the process of finding a new "lender," has collectively diverted significant cost, time and energy that could have been spent focusing on the business needs. Moreover, the payoff of the prior lender and entrance into a new financial relationship was extremely costly.

The recent losses experienced by the Debtor were less, percentage wise, than those of the rest of the newspaper industry and this is directly attributable to the foresight of the Debtor's principals who have consistently responded quickly to each downturn with commensurate cost cutting measures in an attempt to keep costs in line with revenues. Over the last eight (8) years approximately, cost cutting measures have included the closing of the Debtor's Chicago, San Francisco and New York City offices, and significant lay-offs and pay cuts for senior management. In addition, in 2016 the Debtor's management successfully increased historic margins of 9% to as much as 15%. In fact, after a \$1.39 million loss in 2015, the Debtor showed an EBITA profit of approximately \$149,000 in 2016. Unfortunately, the costs of entering into two different financing arrangements and then paying the first off carried costs of approximately \$1.8 million which directly resulted in a net loss in 2016 of \$1.6 million dollars. Further, notwithstanding the factoring from Versant, the Debtor still faced serious working capital shortfalls, which resulted in accumulation of the Debtor's accounts payable.

The Debtor intended to utilize the Chapter 11 process to restructure its affairs under the protections of the Bankruptcy Court.

## **B. Significant Events During the Bankruptcy Case**

### *1. Commencement of the Case*

On March 27, 2017 (the "Petition Date"), the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (White Plains Division) and continued in possession of its property and management of its affairs as a debtor-in-possession pursuant to Sections 1107 and 1108 of the

Bankruptcy Code. The case was assigned to the Hon. Robert D. Drain, United States Bankruptcy Judge, for administration under the Bankruptcy Code.

*2. Employment of the Debtor's Professionals*

At the outset of this case the Debtor retained DelBello Donnellan Weingarten Wise & Wiederkehr, LLP as its Bankruptcy counsel to assist in the successful administration of the Debtor's bankruptcy case. The retention of DelBello Donnellan Weingarten Wise & Wiederkehr, LLP was approved by an Order of the Bankruptcy Court dated April 21, 2017, *nunc pro tunc* as of the Petition Date (ECF No. 28). Separately, by order of the Bankruptcy Court dated May 18, 2017, Rust Consulting/Omni Bankruptcy was retained as Claims and Noticing Agent to the Debtor, *nunc pro tunc* as of the Petition Date (ECF No. 51). By order of the Bankruptcy Code Court dated July 18, 2017, Paul R. Gertelman, CPA, PC was retained as the Debtor's accountants (ECF No. 78).

*3. Appointment of the Official Committee of Unsecured Creditors*

On April 12, 2017, the United States Trustee for the Southern District of New York appointed an Official Committee of Unsecured Creditors (the "Creditors' Committee"). The Creditors' Committee currently consists of: (i) Boston Globe Media Partners LLC, (ii) Dow Jones & Company, Inc., (iii) Hearst Communications, Inc., (iv) MJS Communications, and (v) Sun-Times Medial Productions LLC (ECF No. 20). By order of the Bankruptcy Court dated August 2, 2017, the Creditors' Committee retained Lowenstein Sandler LLP *nunc pro tunc* to April 17, 2017 as its attorneys.

*4. Filing of Schedules of Assets and Liabilities and Statement of Financial Affairs*

On April 14, 2017, the Debtor filed its Schedules of Assets and Liabilities, together with its Statement of Financial Affairs (collectively, the “Schedules”, ECF No. 21). The Debtor filed an amendment to its Schedule G: Contracts and Leases on April 19, 2017 (ECF No. 26). The Debtor’s Schedules are available on the Bankruptcy Court’s website: [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

*5. Claims Bar Dates*

Pursuant to an order of the Bankruptcy Court dated May 26, 2016 (“Bar Date Order”), July 21, 2017 was established as the last date by which creditors may file proofs of claim in the Chapter 11 Case, except as otherwise provided in the Bar Date Order (ECF No. 54). On May 30, 2017, a notice of entry of the order was mailed to all creditors listed on the Debtor’s creditor matrix filed with the Bankruptcy Court (ECF No. 56).

By Amended Order dated September \_\_, 2017, November 17, 2017 was set as the last day for filing administrative Proofs of Claim (the “Administrative Bar Date”) for those claims against the Debtor that arose on or after March 27, 2017, except as otherwise provided in the Administrative Bar Date Order.

*6. 341 Meeting and Case Status Conferences*

On April 26, 2017, the Debtor attended its Initial Debtor Interview and Section 341(a) Meeting of Creditors. The Debtor also appeared at the initial case conference in this Bankruptcy proceeding before the Hon. Robert D. Drain at the United States Bankruptcy Courthouse on July 7, 2017 and has appeared at all hearings and continued case conferences as scheduled by the Bankruptcy Court.

*7. Post-Petition Cessation of Operations*

Subsequent to the Debtor’s chapter 11 filing, the actions of the Debtor’s largest



newspaper vendor/creditor, including, tronc, Inc. (“tronc”), caused substantial damage to the Debtor, including additional financing costs and the destruction of the Debtor’s business and good will. The Debtor’s newspaper vendors, including tronc, initially took away the Debtor’s repayment terms (from approximately 60 to 0/COD or CBD) and that undercut the Debtor’s ongoing business. Even more disturbingly, upon information and belief, tronc started contacting certain of the Debtor’s customers and demanded that they pay tronc directly and not pay the Debtor, despite the fact that the Debtor’s customers have no privity with tronc and tronc never conducted business with the Debtor in this fashion. It was the Debtor’s position that tronc’s conduct essentially constituted tortious interference with the Debtor’s contracts with the Debtor’s customers and an end run around the automatic stay under Section 362(a)(3) of the Bankruptcy Code.

tronc’s misconduct led to immediate and irreparable erosion of customer confidence in, and relations with, the Debtor and caused the Debtor’s business to literally crumble in the first few weeks of the Chapter 11 case, forced the Debtor to cease operations, and lay off its 40 employees. As a result, the Debtor ceased operating. The Debtor vacated its offices on or about July 15, 2017 and sent its books and records to storage. The Debtor entered into a stipulation reject its interest in its nonresidential real property lease for its office, *nunc pro tunc*, to July 15, 2017, which stipulation was So-Ordered by the Bankruptcy Court on July 24, 2017 (ECF No. 80). In connection with vacating its offices, on or about July 15, 2017 the Debtor returned certain computer, copier and telephone equipment and thereafter filed a motion seeking to reject the related equipment and/or service leases and/or contracts between the Debtor and Universal Business Solutions Inc. and BPSNA, Inc., which motion is currently *sub judice* before the

Bankruptcy Court (ECF No. 86).

The Debtor has alleged to have incurred significant damages as a result of tronc's violation of the stay, including but not limited to (a) legal fees, (b) damages to business/destruction of business, (c) erosion of monies due to Debtor from Versant, and (d) inability and/or delay in collection of accounts/receivable. These claims constitute Estate Causes of Action and, subject to success in litigation, the proceeds shall be used in part to fund the Plan.

The Debtor has been further working to liquidate its assets and filed a motion seeking permission to auction certain its remaining personal property which have sellable value, namely, (i) comic art and signed letters (15 pieces), (ii) office art (9 pieces), and (iii) Sunday newspaper comics archives (115 pieces) (ECF No. 98). The auction is scheduled to be conducted on \_\_\_\_\_, 2017.

#### 8. *Collection of Accounts Receivable*

From the outset of the filing of the Chapter 11 Case, the Debtor sought authority to continue its account receivable factoring relationship with its secured Versant Funding LLC ("Versant"). Under the pre-petition arrangement with Versant, the Debtor sold its accounts receivable to Versant, and Versant provided an advance on the underlying receivable to assist with the Debtor's cash flow.

Post-Petition, the Debtor obtained approval from the Bankruptcy Court to continue its relationship with Versant, which was approved by Court Order dated July 17, 2017 (the "Versant Order", ECF No. 77). The Versant Order authorized, *inter alia*, the Debtor to enter into the Post Petition Factoring Agreement whereby the Debtor sold to Versant \$300,000 of its post-petition accounts receivable. The Debtor expects to receive back from Versant approximately

\$400,000.00 from the collected pre- and post-petition accounts receivables, which will be used to fund the Plan.

*9. Post-Petition DIP Lending*

The cessation of the Debtor's operations, coupled with Versant's collection of the all of the Debtor's accounts receivables completely crippled the Debtor's cash flow. The Debtor was left in an unfortunate situation whereby it had absolutely no cash to fund its administrative expenses. Phyllis Cavaliere, the Debtor's Chief Executive Officer, agreed to loan to the Debtor up to \$25,000 on an unsecured administrative claim basis pursuant to §364(b) of the Bankruptcy Code. An order approving the post-petition loan from Mrs. Cavaliere was approved by the Bankruptcy Court by order dated August 3, 2017 (ECF No. 83).

*10. Sale of NDX Software*

During the course of the Debtor's day to day operations, the Debtor utilized the NDX software which was owned by the Debtor's parent company, Gemini Communications Inc. ("Gemini"). The NDX software is a national newspaper database source, which provides current and archived circulation by zip code and sub-ZIP Code (where available) and zoning rules for approximately 7,000 publications, as well as all ancillary distribution data including but not limited to corporate ownership, method(s) of delivery; if audited and by whom, product type and code, whether paid or free, contact information, day(s) of delivery, minimums, preprint specs, and ROP spec.

Since the cessation of the Debtor's operations, the Debtor no longer required the use of the NDX software, which required monthly maintenance. Gemini made the business decision to sell the NDX software and thereafter engaged in negotiations with several interested parties.

Ultimately on or about August 16, 2017, Gemini was able to sell the NDX software to Nucleus Marketing Solutions, LLC for \$40,000. The sale proceeds were deposited into the Debtor's DIP bank account for use by the Debtor to pay post-petition administrative expenses.

*11. Litigation with tronc, Inc.*

tronc is a newspaper print and online media company with which the Debtor did business for many years. On or about April 6 or 7, 2017, tronc sent letters (the "tronc Demand Letters") to the following 19 entities: AARP, AB Data Limited, ADT, Blue Shield of CA, Boehringer (LAT), Burger King Corporation, Capital One (CTC), Centene Corp dba Health Net, Dignity Health, Eau Palm Beach Spa, HSBC Bank, Incyte Pharmaceuticals, LG Electronics, Mutual of Omaha, Navy Federal Credit Union, Pentagon Federal, PNC Bank, Sands Bethlehem, and Siemens collectively referred to herein as the "Advertiser Entities") seeking payment to tronc of monies that the Debtor claims are solely due and payable to Versant Funding LLC as assignee of the Debtor under its factoring arrangement.

On April 18, 2017, the Debtor filed an Emergency Motion for an Order (i) Determining tronc Inc. to be in Willful Violation of the Automatic Stay and (ii) Directing Tronc to Pay the Debtor's Costs and Fees Incurred and Compensatory Damages Sustained and in Connection with this Motion Pursuant to this Court's Civil Contempt Powers and 11 U.S.C. §§105(a) and 362(a) and Request for Hearing on Shortened Notice (the "Debtor's Stay Violation Motion") (ECF Nos. 24, 25, 30 and 36), and pursuant to that motion, the Debtor seeks monetary and other damages from tronc. On April 27, 2016, tronc filed a Response in Opposition to the Debtor's Stay Violation Motion (ECF Nos. 34 and 35; the "tronc Opposition"). At a hearing on April 28, 2017, the Court directed, and tronc agreed, that the tronc Demand Letters be immediately rescinded in

their entirety subject to the reservation of the Debtor's and tronc's respective rights. The Court further directed that tronc may, in turn, move for relief from the automatic stay with respect to its ability to seek payment from the Advertiser Entities and others, including on the principal/agent theory (the "Relief from Stay Motion"), and that the Court would hold an evidentiary hearing, bifurcated as to damages and other monetary relief, to further consider (a) the Debtor's Stay Violation Motion, and the tronc Opposition thereto, and (b) the Relief from Stay Motion and the Debtor's opposition thereto (collectively, the "Contested Proceedings").

On May 1, 2017, tronc sent letters to the Advertiser Entities rescinding the Demand Letters as ordered by the Court.

On May 2, 2017, the Court issued a scheduling order in connection with the Contested Proceedings. The May 2, 2017, order reflected the Court's directives at the April 28, 2017 hearing, and, among other things, scheduled an evidentiary hearing on August 3, 2017 and August 4, 2017 on the principal/agent-related issues in the Contested Proceedings, with a separate hearing to consider the Debtor's damages and other monetary relief, if any, to be subsequently scheduled by the Court.

On May 15, 2017, tronc filed its Relief from Stay Motion (ECF No. 48). On June 7, 2017, the Debtor filed its opposition to the tronc Relief from Stay Motion (ECF No. 61).

On May 2, 2017, the Court issued a scheduling and pre-trial order for evidentiary hearing in the Contested Proceedings setting, among other things, a schedule for pre-hearing discovery and pre-hearing submissions prior to the scheduled evidentiary hearing on August 3, 2017 and August 4, 2017 on the principal/agent-related issues in the Contested Proceedings (ECF No. 44). On July 13, 2017, the Court issued an amended scheduling and pre-trial order for evidentiary

hearing in the Contested Proceedings (ECF No. 76) revising, among other things, the schedule for pre-hearing discovery and pre-hearing submissions and confirming the adjournment, on consent of tronc and the Debtor, of the evidentiary hearing on the principal/agent-related issues in the Contested Proceedings to November 6, 2017 and November 7, 2017. On August 31, 2017, the Court issued a second amended scheduling and pre-trial order for evidentiary hearing in the Contested Proceedings (ECF No. 94) revising, among other things, the schedule for pre-hearing discovery and pre-hearing submissions and confirming the adjournment, on consent of tronc and the Debtor, of the evidentiary hearing on the principal/agent-related issues in the Contested Proceedings to December 6, 2017 and December 7, 2017.

Discovery and preparation for the evidentiary hearing in the Contested Proceeding is ongoing. The Debtor believes it holds significant claims for damages against tronc. However, the results of the tronc litigation remain uncertain at this time.

#### *12. Chapter 5 Preference Claims*

The Debtor, in consultation with its professionals, have analyzed its books and records to determine whether any cause of action were assertable under sections 510, 542, 543, 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code or non-bankruptcy law. The Debtor has determined that it has significant claims for preference claims under section 547 of the Bankruptcy Code. The Debtor's analysis of its books and records reflect \$4.8 million in gross transfers that may constitute preferences, although the transferees are likely to assert new value and ordinary course defenses. The Debtor estimates recovery in excess of \$500,000.

On June 22, 2017, the Debtor commenced adversary proceedings against tronc and Gannett seeking recovery of preferential payments (Adv. Pro. Nos. 17-8237 and 17-8238,

respectively), seeking recovery in the aggregate amount of \$1,163,339.78. Both tronc and Gannett have already informally asserted defenses to these claims, and the results of litigation remain uncertain at this time.

Additionally, the Debtor has a Directors & Officers Insurance Policy (the “D&O Policy”). Upon information and belief, the Creditors’ Committee intends to file a claim against the Debtor’s D&O Policy, which has a \$1 million per claim limit and is in effect through April 30, 2018.

### **III. THE PLAN OF LIQUIDATION**

The following is a brief summary of the Plan. The Plan represents a proposed legally binding agreement and creditors are urged to consult with their counsel in order to fully understand the Plan and to make an intelligent judgment concerning it. The Plan governs over any discrepancy in this summary.

As required by the Bankruptcy Code, the Plan places claims in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

#### **A. Treatment of Unclassified Claims Under the Plan**

Certain types of claims are automatically entitled to specific treatment under the Bankruptcy Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Bankruptcy Code. As such, the Debtor has *not* placed the following claims in any class:

*1. Allowed Administrative Claims other than Claims of Professionals*

Administrative expenses are costs or expenses of administration in connection with the Chapter 11 Case, including, without limitation, any actual, necessary costs and expenses of preserving the Debtor's estate, and all fees and charges assessed against the Debtor's estate pursuant to 28 U.S.C. section 1930. The term Administrative Claim does not include Fee Claims and quarterly fees owed to the Office of the U.S. Trustee, which are treated separately in this Plan. These Allowed Claims shall be paid in Cash on the Effective Date from the Plan Distribution Fund. The Debtor estimates that the Allowed Administrative Claims other than Claims of Professionals outstanding on the Effective Date are \$150,000.

*2. Allowed DIP Lender Claims*

The Allowed DIP Lender Claim constitutes the Allowed Administrative Claim of Phyllis Cavaliere for her post-petition DIP Loan. The Allowed DIP Lender Claim shall be paid in full, in Cash. Mrs. Cavaliere has agreed that payment of the Allowed DIP Lender Claim shall be deferred until after full payment of all Administrative Expense Claims, Administrative Professional Fee Claims, and Statutory Fees. The Debtor estimates that the Allowed DIP Lender Claim outstanding on the Effective Date is \$25,000.

*3. Allowed Administrative Claims of Professionals*

These are Claims by any Professionals for compensation for legal and other services and reimbursement of expenses allowed or awarded under Bankruptcy Code sections 327, 328, 330(a), 331, 503(b) and/or 1103. The Debtor has three Professionals whose employment has been approved by the Bankruptcy Court; (i) the Debtor's current bankruptcy counsel, DelBello



Donnellan Weingarten Wise & Wiederkehr, LLP (“DDWWW”), (ii) Paul R. Gertelman, CPA, PC as Accountant to the Debtor, and (iii) Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent to the Debtor. In addition, the Creditors’ Committee retained Lowenstein Sandler, LLP as its bankruptcy counsel. The Allowed Administrative Claims of the Professionals shall be paid in full, in Cash, upon the later of (i) allowance by the Court pursuant to 11 U.S.C. § 330, or (ii) the Effective Date. The Debtor estimates that the total net unpaid fee claims on the Effective Date total approximately \$400,000, representing net unpaid professional fees incurred through the Effective Date as follows: (i) DelBello Donnellan Weingarten Wise & Wiederkehr, LLP - \$275,000, (ii) Lowenstein Sandler LLP - \$100,000, and (iii) Paul Gertleman CPA - \$25,000.

#### *4. Statutory Fees*

These are claims for fees for which the Debtor is obligated pursuant to Section 1930(a)(6) of title 28 of the United States Code, together with interest, if any, pursuant to Section 3717 of title 31 of the United States Code. The Debtor shall pay outstanding Statutory Fees in full, in Cash, on the Effective Date. Such fees shall be paid in full, in Cash, in such amount as incurred in the ordinary course of business by the Debtor from the Post-Confirmation Reserve. Thereafter, the Debtor shall continue to pay Statutory Fees due and payable until the earlier of conversion of the Chapter 11 Case to a case under Chapter 7 of the Code, dismissal or the entry of a final decree closing the Chapter 11 Case. The Debtor is current and these fees total \$0.

#### *5. Allowed Priority Tax Claims*

Priority tax claims are unsecured income, employment, sales, and other taxes described by §507(a)(8) of the Bankruptcy Code. The Debtor shall pay all Allowed Priority Tax claims in

full, in Cash from the Plan Distribution Fund on the Effective Date. The Debtor estimates these Claims to not exceed approximately \$20,000.

**B. Classes of Claims**

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

*1. Class 1: Secured Claims*

Class 1 Claims consist of Claims held by creditors secured by mortgages or liens on real and/or personal property owned by the Debtor or upon the leasehold interests and assets of the Debtor in accordance with section 506(a) of the Bankruptcy Code. Holders of Class 1 Secured Claims shall receive up to 100% of their Allowed Claim in full from the liquidation of their collateral in full and final satisfaction of their Claims against the Debtor. Any deficiency claim of Class 1 Claimants shall be treated as a Class 3 Unsecured Claim. Insofar as Versant will be paid in full on its secured claim from the liquidation of the Debtor's accounts receivable, the Debtor believes Class 1 Claims will total \$-0-. Class 1 Claims are unimpaired and deemed to accept the Plan.

*2. Class 2: Allowed non-tax Priority Claims*

Class 2 Claims consist of Claims entitled to priority under Section 507(4)(2)-(7) of the Bankruptcy Code. Class 2 claims shall each receive 100% of its Allowed Class 2 Claims in full on the Effective Date. The Debtor estimates these Claims to not exceed approximately \$100,000. Class 2 Claims are unimpaired and deemed to accept the Plan.

3. *Class 3: Allowed General Unsecured Claims*

Class 3 consists of the holders of Allowed General Unsecured Claims. General Unsecured Claims are claims which are not either an Administrative Claim, Secured Claim, Priority Claim, or Interest that arose prior to the Petition Date and includes, without limitation, Claims based upon pre-petition trade accounts payable or Claims based upon the rejection of an executory contract during the pendency of the Chapter 11 Case.

Class 3 Claim holders shall share in a distribution on a Pro Rata basis of the remaining monies in the Plan Distribution Fund, up to 100%, after payment of all unclassified and Class 1 Claims and the Post Confirmation Date Reserve, in full and final satisfaction of its Class 2 Claims as against the Debtor. The Debtor estimates Class 3 Claims to total approximately \$13,000,000, with an estimated, approximate 7% Pro Rata distribution. Class 3 Claims are Impaired under the Plan and are allowed to vote on the Plan.

4. *Class 4: Interests*

Interests are holder of an equity security of or membership interest in the Debtor, within the meaning of Bankruptcy Code sections 101(16) and (17), represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership or membership interest in the Debtor, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest, including a partnership, limited liability company or similar interest.

Class 4 consists of the Claims of holders of Interests in the Debtor. Class 4 Interests consist of Gemini Communications Inc. (100%). Holders of Class 4 Interests shall not receive

any distribution under the Plan on account of any Class 4 Interests. Class 4 Interests are Impaired and deemed to reject on the Plan.

### **C. Resolution of Disputed Claims & Reserves**

#### *1. Objections.*

An objection to either the allowance of a Claim or an amendment to the Debtor's Schedules shall be in writing and may either be filed with the Bankruptcy Court or pursued and resolved by other means by the Debtor, at any time on or before the Effective Date, or for a period of thirty (30) days thereafter, or within such other time period as may be fixed by the Bankruptcy Court. Except as otherwise set forth in this Plan, (i) any Claim against the Debtor that arose prior to the Petition Date not filed with the Bankruptcy Court by July 21, 2017, unless specifically scheduled by the Debtor as nondisputed, noncontingent and liquidated, or (ii) any Administrative Claim not filed with the Bankruptcy Court by November 17, 2017, is hereby deemed invalid for all purposes. The Debtor will object to and settle any Claims and shall settle, compromise or prosecute all Claims objections.

#### *2. Amendment of Claims.*

A Claim may be amended prior to the Effective Date only as agreed upon by the Debtor and the holder of such Claim and as approved by the Bankruptcy Court or as otherwise permitted by the Bankruptcy Code and Bankruptcy Rules. After the Effective Date, a Claim may be amended as agreed upon by the holder thereof and the Debtor to decrease, but not increase, the face amount thereof.

#### *3. Reserve for Disputed Claims.*

The Debtor shall reserve for account of each holder of a Disputed Claim that property

which would otherwise be distributable to such holder on such date were such Disputed Claim an Allowed Claim on the Effective Date, or such other property as the holder of such Disputed Claim and the Debtor may agree upon. The property so reserved for the holder, to the extent such Disputed Claim is allowed, and only after such Disputed Claim becomes a subsequently Allowed Claim, shall thereafter be distributed to such holder.

*4. Distributions to Holders of Subsequently Allowed Claims.*

Unless another date is agreed on by the Debtor and the holder of a particular subsequently Allowed Claim, the Debtor shall, on the first Business Day to occur after the fourteenth (14th) day after the Allowed amount of such theretofore Disputed Claim is determined, distribute to such holder with respect to such subsequently Allowed Claim the amount of distribution required under the Plan at that time, in Cash. The holder of a subsequently Allowed Claim shall not be entitled to any interest on the Allowed amount of its Claim, regardless of when distribution thereon is made to or received by such holder.

**D. Plan Funding and Means of Implementing the Plan**

*1. Plan Funding.*

The Plan shall be funded from the Plan Distribution Fund, which consists of (i) all of the Debtor's remaining Cash on hand, (ii) net proceeds from the liquidation of the Debtor's personal property, (iii) accounts receivable, including but not limited to, monies due from Versant Funding, LLC, the Debtor's factor, and (iv) recovery on Causes of Action commenced on behalf of the Debtor's estate, which collectively shall be used to fund a distribution under the Plan to all unclassified, Allowed Class 2 and 3 Claims, and the Post-Confirmation Date Reserve defined herein. The Plan Distribution Fund shall be held pursuant to Section 345 of the Bankruptcy Code

and ultimately distributed by DelBello Donnellan Weingarten Wise & Wiederkehr, LLP (the “Disbursing Agent”) in accordance with the terms of the Plan. Except as otherwise provided in the Plan, including without limitation Article IX of this Plan, the first distribution from the Plan Distribution Fund shall be distributed to holders of Allowed Claims under the Plan by the Disbursing Agent on the later of the following dates: (i) on the Effective Date to the extent the Claim has been Allowed or (ii) to the extent that a Claim becomes an Allowed Claim after the Effective Date, within fourteen (14) days after the order allowing such Claim becomes a Final Order.

*2. Means for Implementation.*

On the Effective Date, the Distribution Agent shall make the first distribution from the Plan Distribution Fund in accordance with this Plan. Thereafter, the Disbursing Agent shall make semi-annual distributions from the Plan Distribution Fund, to the extent monies are available for distribution, until the Debtor has concluded the liquidation of its personal property and prosecution of all Causes of Action. The Debtor’s Plan Distribution Analysis is annexed hereto as **Exhibit “B”**.

**E. Executory Contracts and Leases**

The Plan, in Section 7.1, states that during the pendency of the Chapter 11 Case, the Debtor rejected all written leases or contracts that were executory, in whole or in part, to which any of the Debtor was a party. Any person or entity who may have a Claim that arose from rejection of an executory contract shall, to the extent such Claim becomes an Allowed Claim, have the rights of a holder of an Unsecured Claim in Class 3 with respect thereto.

## **F. Tax Consequence of the Plan**

*Creditors Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, and/or Advisors.*

Confirmation may have federal income tax consequences for the Debtor and Creditors. The Debtor has not obtained, and does not intend to request, a ruling from the Internal Revenue Service (the "IRS"), nor has the Debtor obtained an opinion of counsel with respect to any tax matters. Any federal income tax matters raised by confirmation of the Plan are governed by the Internal Revenue Code and the regulations promulgated thereunder. Creditors are urged to consult their own counsel and tax advisors as to the consequences to them, under federal and applicable state, local and foreign tax laws, of the Plan. The following is intended to be a summary only and not a substitute for careful tax planning with a tax professional. The federal, state and local tax consequences of the Plan may be complex in some circumstances and, in some cases, uncertain. Accordingly, each holder of a Claim is strongly urged to consult with his or her own tax advisor regarding the federal, state and local tax consequences of the Plan, including but not limited to the receipt of cash and/or stock under this Plan.

### *1. Tax Consequences to the Debtor*

The Debtor may not recognize income as a result of the discharge of debt pursuant to the Plan because Section 108 of the Internal Revenue Code provides that taxpayers in bankruptcy proceedings do not recognize income from discharge of indebtedness. However, a taxpayer is required to reduce its "tax attributes" by the amount of the debt discharged. Tax attributes are reduced in the following order: (i) net operating losses; (ii) general business credits; (iii) capital

loss carryovers; (iv) basis in assets; (v) passive activity loss and credit carryovers; and (vi) foreign tax credit carryovers.

*2. Tax Consequences to Unsecured Creditors*

An unsecured creditor that receives cash in satisfaction of its Claim may recognize gain or loss, with respect to the principal amount of its Claim, equal to the difference between (i) the creditor's basis in the Claim (other than the portion of the Claim, if any, attributable to accrued interest), and (ii) the balance of the cash received after any allocation to accrued interest. The character of the gain or loss as capital gain or loss, or ordinary income or loss, will generally be determined by whether the Claim is a capital asset in the creditor's hands. A creditor may also recognize income or loss in respect of consideration received for accrued interest on the Claim. The income or loss will generally be ordinary, regardless of whether the creditor's Claim is a capital asset in its hands.

**G. Avoidance and Recovery Actions**

The Debtor will pursue all Causes of Action that should be pursued. The Debtor shall commence such actions no later than one hundred twenty (120) days after the Effective Date. The proceeds from any recoveries from Avoidance Actions shall be used to first pay any outstanding professional fees and expenses incurred in connection with the prosecution of Avoidance Actions, with the balance to be deposited into the Plan Distribution Fund for further distribution in accordance with this Plan.

**IV. CONFIRMATION REQUIREMENTS AND PROCEDURES**

To be confirmable, the Plan must meet the requirements listed in §§ 1129(a) or (b) of the Bankruptcy Code. These include the requirements that: the Plan must be proposed in good faith;



at least one impaired class of claims must accept the plan, without counting votes of insiders; the Plan must distribute to each creditor at least as much as the creditor would receive in a chapter 7 liquidation case, unless the creditor votes to accept the Plan; and the Plan must be feasible. These requirements are not the only requirements listed in §1129, and they are not the only requirements for confirmation.

**A. Who May Vote or Object**

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor has a right to vote for or against the Plan only if that creditor has a claim that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Debtor believes that there are classes impaired under the Plan and that the holder of the claims in these classes are entitled to vote to accept or reject the Plan. The Debtor believes that classes are unimpaired and that holders of claims in each of these classes, therefore, do not have the right to vote to accept or reject the Plan.

*1. What Is an Allowed Claim?*

Only a creditor with an allowed claim has the right to vote on the Plan. Generally, a claim is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim, unless an objection has been filed to such proof of claim. When a claim is not allowed, the creditor holding the claim cannot vote unless the Court, after notice and hearing,

either overrules the objection or allows the claim for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

*The deadline for filing a proof of claim in this case was July 21, 2017.*

2. *What Is an Impaired Claim?*

As noted above, the holder of an allowed claim has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in §1124 of the Bankruptcy Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

Class 3 Claims are impaired under the Plan and entitled to vote.

Each Holder of a Claim in Class 3 has been sent a ballot together with this Disclosure Statement. The ballot is to be used for voting to accept or reject the Plan.

The Bankruptcy Court has directed that, to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be mailed or delivered by hand or courier so that they are ACTUALLY RECEIVED no later than 4:00 p.m. (Eastern Standard Time) on December \_\_\_\_\_, 2017 at the following address:

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP  
One North Lexington Avenue  
White Plains, New York 10601  
Attn: Jonathan S. Pasternak, Esq.  
Julie Cvek Curley, Esq.

Each Holder of an Allowed Claims in Class 3 shall be entitled to vote to accept or reject the Plan as provided for in the order approving the Disclosure Statement. A vote may be disregarded if the Bankruptcy Court determines that such vote was not solicited or procured in good faith and in accordance with the Bankruptcy Code.

3. *Who is Not Entitled to Vote*

The holders of the following five types of claims are *not* entitled to vote:

- holders of claims that have been disallowed by an order of the Court;
- holders of other claims that are not “allowed claims” (as discussed above), unless they have been “allowed” for voting purposes;
- holders of claims in unimpaired classes;
- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Bankruptcy Code; and
- administrative expenses.

***Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan and to the Adequacy of the Disclosure Statement.***

4. *Who Can Vote in More Than One Class*

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a Plan in each capacity, and should cast one ballot for each claim.

**B. Votes Necessary to Confirm the Plan**

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by “cram down” on non-accepting classes, as discussed later in Section B.2.

1. *Votes Necessary for a Class to Accept the Plan*

A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

2. *Treatment of Nonaccepting Classes*

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the Bankruptcy Code. A plan that binds nonaccepting classes is commonly referred to as a “cram down” plan. The Bankruptcy Code allows the Plan to bind nonaccepting classes of claims if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Bankruptcy Code, does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan.

*You should consult your own attorney if a “cramdown” confirmation will affect your claim as the variations on this general rule are numerous and complex.*

### **C. Feasibility and Best Interests Test**

The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court must find that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor (the “Feasibility Test”).

For a plan to meet the Feasibility Test, the Bankruptcy Court must find that the Debtor will possess the resources to meet its obligations under the Plan. Since the Plan contemplates a liquidation of the Debtor’s assets, Confirmation of the Plan is not likely to be followed by the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan. Moreover, on the Effective Date, the Debtor will have sufficient funds on hand to fund the Plan. The Plan Distribution Schedule outlining all payments to be made under the Plan is attached to this Disclosure Statement as **Exhibit “B.”** *You Should Consult with Your Accountant or other Financial Advisor If You Have Any Questions Pertaining to These Projections.*

In addition, the Bankruptcy Court must determine that the values of the distributions to be made under the Plan to each Class will equal or exceed the values which would be allocated to such Class in a liquidation under Chapter 7 of the Bankruptcy Code (the “Best Interest Test”).

The Best Interest Test with respect to each impaired Class requires that each holder of a Claim or Interest in such Class either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code. Because the Debtor has proposed a liquidating Plan which distributes all proceeds thereof to holders of Allowed Claims in order of priority, no scenario exists, including but not limited to Chapter 7 liquidation, under which the creditors would be entitled to receive a distribution greater than that which the Debtor has proposed in its Plan. In fact, were the Debtor’s assets liquidated in a Chapter 7 case, the creditors of the estate would stand to receive far less as the Administrative costs associated with such a case would be significantly higher.

The Debtor believes that the Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code, including the “best interest” and feasibility requirements. The Plan is “fair and equitable” and “does not discriminate unfairly”. The Plan complies with all other requirements of Chapter 11 of the Bankruptcy Code and the Plan has been proposed in good faith.

**D. Notices**

All notices and correspondence should be forwarded in writing to:

If to the Debtor:

Metro Newspaper Advertising Services, Inc.  
c/o DelBello Donnellan Weingarten Wise & Wiederkehr, LLP  
One North Lexington Avenue  
White Plains, New York 10601  
Attn: Jonathan S. Pasternak, Esq.  
Julie Cvek Curley, Esq.

If to the Creditors' Committee:

Lowenstein Sandler LLP  
One Lowenstein Drive  
Roseland, NJ 07068  
Attn: Mary E. Seymour, Esq.

## V. EFFECT OF CONFIRMATION OF PLAN

### A. Discharge of Debtor

Since the Plan provides for a liquidation of the Debtor's assets, the Confirmation Order shall not operate as a discharge pursuant to Section 1141(d)(1) of the Bankruptcy Code.

#### 1. *Exculpation.*

***Except as otherwise specifically provided in this Plan, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any Exculpated Claim, or obligation, cause of action or liability for any Exculpated Claim, and shall be entitled to reasonably rely on the advice of counsel with respect to their duties and responsibilities pursuant to this Plan. Each Exculpated Party and their respective affiliates, agents, directors, members, officers, officials, employees, advisors and attorneys have, and upon the Effective Date shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code and applicable non-***

*bankruptcy law and shall not be liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of this Plan or distributions made pursuant to this Plan. From and after the Effective Date and upon the distributions contemplated in the Plan, a copy of the Confirmation Order and the Plan shall constitute and may be submitted as a complete defense to any claim or liability satisfied, enjoined or subject to exculpation pursuant to Article XI of the Plan; provided, however, that nothing in the Plan shall, or shall be deemed to, release the Debtor and its current and former officers, directors, members, managers, employees, or exculpate the Debtor and its current and former officers, directors, members, managers, employees of the Debtor with respect to, their obligations or covenants arising from bad faith, willful misconduct, gross negligence, breach of fiduciary duty, malpractice, fraud, criminal conduct, unauthorized use of confidential information that causes damages, and/or ultra vires acts. Upon confirmation of the Plan, Creditors will be unable to pursue any claims that are satisfied, enjoined or subject to exculpation under the Plan, but creditors may pursue claims against the Debtor and its current and former officers, directors, members, managers, or employees that may arise in the future, or pursuant to the Plan. Any such liability against the Debtor's professionals will not be limited to their respective clients contrary to the requirement of DR 6-102 of the Code of Professional Responsibility.*

*2. Release*

*As of the Effective Date and upon the distributions contemplated in the Plan and except as set forth in this Plan, each holder of a Claim or Interest shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released and discharged*

*the Exculpated Parties from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative Claims assertable on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Person would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring after the Petition Date, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor that occurred after the Petition Date, the restructuring of Claims and Interests during the Chapter 11 Case, the negotiation, formulation or preparation of this Plan, the Disclosure Statement, or related agreements, instruments or other documents (collectively, "Released Claims"), other than Released Claims against the Debtor or an Exculpated Party arising out of or relating to any act or omission of that party constituting willful misconduct or gross negligence. For the avoidance of doubt, no provision of this Plan, including without limitation, any release or exculpation provision, shall modify, release, or otherwise limit the liability of any Person in their capacity as a co-obligor, guarantor, or surety of the Debtor or an Exculpated Party or that otherwise is liable under theories of vicarious or other derivative liability.*

**3. Plan Injunction**

*Effective on the Confirmation Date, all persons who have held, hold or may hold Claims, with regard to all Classes of Claims are enjoined from taking any of the following actions against or affecting the Debtor or assets of the Debtor with respect to such Claims, except as otherwise set forth in the Plan, and other than actions brought to enforce any rights*



*or obligations under the Plan or appeals, if any, from the Confirmation Order:*

*(i) Commencing, conducting or continuing in any manner, directly or indirectly, any suit, action, arbitration, or other proceeding of any kind against the Debtor;*

*(ii) Enforcing, levying, attaching, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtor;*

*(iii) Creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor or the Purchaser, the assets of the Debtor; and*

*(iv) Proceeding in any manner and any place whatsoever that does not conform to or comply with the provisions of the Plan.*

3. *Full and Final Satisfaction*

To the fullest extent permitted by Section 1141(a)-(c) of the Bankruptcy Code, all payments and all distributions pursuant to the Plan, shall be in full and final satisfaction, settlement and release of all Claims and Interests, except as otherwise provided in the Plan. Nevertheless, under Section 1141(d) of the Bankruptcy Code, the Debtor will not receive a discharge because the Plan is a liquidating plan.

**B. Amendment, Modification, Withdrawal or Revocation of the Plan.**

The Debtor reserves the right, in accordance with section 1127(a) of the Bankruptcy Code, to amend or modify the Plan prior to the Confirmation Date. After the Confirmation Date, the Debtor may, upon order of the Bankruptcy Court, in accordance with section 1127(b) of the

Bankruptcy Code, remedy any defect or omission or reconcile and inconsistencies in the Plan in such manner as may be necessary to carry out the purposes and intent of the Plan.

**C. Unclaimed Property**

Distributions to holders of Allowed Claims shall be sent to their last known address set forth on a proof of claim filed with the Bankruptcy Court or if no proof of claim is filed, on the Schedules, or to such other address as may be designated by such Creditor in writing to the Debtor. A payment is to be deemed unclaimed if the payment on the distribution is not negotiated by the particular claimholder within 120 days of it being sent by the Debtor. If after thirty (30) days additional attempted notice to the claimholder such distribution remains unclaimed or unnegotiated, then and in that event such holder's Claim shall thereupon be deemed canceled and any such holder shall not be entitled to any payments under the Plan, and such unclaimed distributions shall be returned to the Plan Distribution Fund and redistributed in accordance with the Plan.

**D. Retention of Jurisdiction**

The Bankruptcy Court shall retain jurisdiction of the chapter 11 case:

- (a) To determine all controversies relating to or concerning the allowance of Claims upon objection to such Claims by the Debtor;
- (b) To determine requests for payment of Claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including any and all applications for compensation for professional and similar fees;
- (c) To determine any and all applications pursuant to section 365 of the Bankruptcy Code for the rejection, or assumption and/or assignment, as the case may be, of executory

contracts and unexpired leases to which the Debtor is a party or with respect to which the Debtor may be liable, and to determine and, if necessary, to liquidate, any and all Claims arising therefrom;

(d) To determine any and all applications, adversary proceedings, and contested or litigated matters over which the Bankruptcy Court has subject matter jurisdiction pursuant to 28 U.S.C. sections 157 and 1334;

(e) To determine all Disputed Claims and amendments to the Debtor's Schedules;

(f) To adjudicate controversies or interpretations pursuant to any order or stipulation entered by the Bankruptcy Court prior to the Confirmation Date;

(g) To modify this Plan pursuant to section 1127 of the Bankruptcy Code or to remedy any defect or omission or reconcile any inconsistencies in this Plan or Confirmation Order to the extent authorized by the Bankruptcy Code;

(h) To make such orders as are necessary or appropriate to carry out the provisions of this Plan;

(i) To resolve controversies and disputes regarding the interpretation or enforcement of the terms of this Plan;

(j) to commence or prosecute the Causes of Action; and

(k) To enter a final decree closing the Chapter 11 Case.

#### **E. Post-Confirmation Fees, Reserves and Final Decree**

The reasonable compensation and out-of-pocket expenses incurred post-Confirmation Date by the Debtor's professionals retained in the Chapter 11 case shall be paid by the Debtor within ten (10) days upon presentation of invoices for such professional services. All disputes

concerning post-confirmation fees and expenses shall be subject to Bankruptcy Court jurisdiction.

The Debtor shall reserve \$50,000 from the Plan Distribution Fund for the payment of post-Confirmation professional fees incurred by Debtor's counsel and the Disbursing Agent in the continued prosecution of estate causes of action, adjudication of Claims, and in connection with the carrying out of duties and responsibilities as the Disbursing Agent as well as payment of United States Trustee fees. The balance of such reserve, if any, shall be distributed in accordance with Article III of the Plan.

A final decree shall be entered as soon as practicable after initial distributions have commenced under the Plan.

#### **VI. RECOMMENDATION**

The Debtor believes that Confirmation of the Plan is preferable to any of the alternatives described above. The Plan will provide greater recoveries than those available in liquidation to all holders of Claims. Any other alternative would cause significant delay and uncertainty, as well as substantial additional administrative costs.

Dated: White Plains, New York  
October 2, 2017

METRO NEWSPAPER ADVERTISING INC.

By: /s/ Phyllis Cavaliere  
Phyllis Cavaliere, President

DELBELLO DONNELLAN WEINGARTEN  
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(914) 681-0200

By: /s/ Jonathan S. Pasternak  
Jonathan S. Pasternak