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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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SECOND AMENDED DISCLOSURE STATEMENT FOR DEBTOR'S SECOND AMENDED CHAPTER 11 LIQUIDATING PLAN

I. INTRODUCTION

Metro Newspaper Advertising Services Inc. (the "Debtor") submits this Second Amended Disclosure Statement (the "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 Second Amended Chapter 11 Liquidating Plan dated November 13, 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" and the Settlement Agreement referred to herein is attached as Exhibit "1" to the Plan. *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 1 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.

1 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 22, 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 Rust Consulting/Omni Bankruptcy, 5955 DeSoto Avenue, Suite 100, Woodland Hills, Calif. 91367 c/o Metro Newspaper Balloting. See Section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by **December 15, 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 15, 2017.**

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 owned a technology based proprietary print planning system known as *Metro NDX* which was 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 were generated by

Metro NDX were contributed to the Debtor just as all of the expenses associated with the operation of the product were 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 had seen a steady decline since that point, as had 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 advertising agency to one which did 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 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," had 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 had 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 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 and reorganize its business under the protections of the Bankruptcy Court. As a result of subsequent events, the Debtor is now proceeding with a liquidating plan under Chapter 11

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.

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 October 12, 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 (ECF No. 113).

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 Debtor's newspaper vendors initially took away the Debtor's repayment terms (from approximately 60 to 0/COD or CBD) and that, in part, undercut the Debtor's ongoing business. In addition, tronc Inc. ("tronc"), the Debtor's largest newspaper vendor, started contacting certain of the Debtor's customers demanding that they pay tronc directly instead of the Debtor/Versant.

The Debtor contends (and tronc disputes) that those events 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, forcing the Debtor to cease operations and lay off its 40 employees. The dispute with tronc resulted in litigation between the Debtor and tronc that is discussed below.

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 to 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 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 currently scheduled to be conducted on November 28, 2017 (ECF No. 128).

8. Collection of Accounts Receivable and Factoring Relationship with Versant Funding LLC

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

The Debtor obtained approval post-petition 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 approximately $300,000 of its post-petition accounts receivable. The Debtor expects to receive back from Versant $350,000.00 related to the collected pre- and post-petition accounts receivables under the terms of the Settlement Agreement (defined in the Plan and discussed below) that must be approved by the Court, and those monies will be used in part to the fund the Plan.

The Debtor is also seeking to collect other accounts receivable that were not factored, including an account receivable of about $146,000 owed by CW Publishing. Any collections on such other accounts receivable will also be used in part to fund the Plan.

9. Post-Petition DIP Lending

The cessation of the Debtor's operations, coupled with the disruption of Versant's collection of the factored 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 (the "DIP Lender Claim"). 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 and the Negotiation of the Settlement Agreement Among the Debtor, tronc, Versant, Cavaliere and Baratoff

tronc is a newspaper print and online media publishing company, whose publications include, but are not limited to, the Chicago Tribune, Los Angeles Times, San Diego Union Times, Orlando Sentinel, Baltimore Sun and others (the "tronc Publications"), and which deals with many advertising agencies and others who order ads, insertions, and digital placements and services for advertisers, as well as advertisers who order such ads, insertions and digital placements and services directly from tronc.

The Debtor placed certain advertisements, including, but not limited to, certain inserts and digital advertisements, in the tronc Publications (the "Metro-Placed Ads") for or on behalf of certain advertisers (the "Advertisers"), either directly from the Advertisers or indirectly from certain advertising agencies (the "Advertising Agencies").

On April 6 and 7, 2017, tronc sent letters to certain of the Advertisers whose ads had been placed through Metro seeking payment from those Advertisers for services rendered by tronc to and for the benefit of such Advertisers (the "tronc Letters").

The Debtor alleges that tronc had no right to send the tronc Letters. tronc disputes that.

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 Inc. to pay the Debtor's Costs and Fees Incurred and Compensatory Damages Sustained 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 [ECF No. 24] alleging, among other things, that tronc's actions in sending out the tronc Letters and any other collection attempts against any of the Advertisers on account of the Metro-Placed Ads violated the automatic stay in the Bankruptcy Case (the "Debtor's Stay Violation Motion").

At a hearing on April 28, 2017, the Court directed, and tronc agreed, that the tronc Letters be 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 Advertisers and others, including on the principal/agent theory asserted by tronc, 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) tronc's planned relief from stay motion and the Debtor's opposition thereto (collectively, the "Contested Proceedings').

On May 1, 2017, tronc sent letters to the Advertisers who were sent the tronc Letters rescinding the tronc 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 (later rescheduled) 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 a Motion for Relief from the Automatic Stay, asserting, among other things, that the tronc Letters and any activity to collect payment for the Metro-Placed Ads from any of the Advertisers was not a violation of the Automatic Stay, and that amounts that tronc claims are due and owing from the Advertisers to tronc for tronc's advertising services were not property of the Bankruptcy estate and such non-debtor parties were not otherwise afforded the protections of the automatic stay (the "Relief from Stay Motion" and

collectively with the Debtor's Stay Violation Motion, the "Contested Proceedings") [ECF No. 48].

tronc disputes and contests the assertions and claims for relief in the Debtor's Stay Violation Motion and related court filings, and Metro, Versant, Cavaliere and Baratoff dispute and contest tronc's assertions and claims for relief in the Relief from Stay Motion and related court filings.

Versant and Metro assert that Metro factored substantially all of Metro's receivables to Versant (the "Factored Receivables"), including receivables attributable to the Metro-Placed Ads, under the terms of the Pre-Petition Factoring Agreement and the Post-Petition Factoring Agreement, and Versant has asserted, among other things, that tronc's collection efforts against the Advertisers and the tronc Letters tortiously interfered with Versant's asserted contractual right to collect the Factored Receivables, including with respect to the Metro-Placed Ads.

tronc denies that Versant has the right to collect any portion of the Factored Receivables due from the Advertisers or Advertising Agencies attributable to tronc's services rendered to or for the benefit of the Advertisers related to the Metro-Placed Ads; and tronc further denies that tronc otherwise tortiously interfered with any alleged right of Versant to collect any Factored Receivables and has asserted that Metro breached its fiduciary duties by factoring tronc's alleged portion of the receivables related to the Metro-Placed Ads or otherwise failing to turn monies paid for tronc services related to the Metro-Placed Ads over to tronc, all of which Metro, Cavaliere, Baratoff and Versant deny.

Versant asserts that due to, among other things, tronc's actions, there was a material delay in the collection of the Factored Receivables leading to an erosion of any monies due from Versant to the Debtor under the Pre-Petition Factoring Agreement and the Post-Petition

Factoring Agreement, and that Versant has significant termination claims against the Debtor, Cavaliere and Baratoff in excess of $2 million, all of which tronc, the Debtor, Cavaliere and Baratoff deny.

Metro scheduled the tronc Publications as general unsecured creditors with claims in the aggregate amount of $2,242,798.38 for tronc services related to the Metro-Placed Ads which were placed prior to the Petition Date [ECF No. 21] (the "tronc Claim").

tronc also asserts that it has an administrative claim in the amount of $3,971.61 for tronc services related to the portion of the Metro-Placed Ads that were placed by Metro and published by tronc subsequent to the Petition Date, and tronc also has asserts that it may have certain administrative claims arising out of the Contested Proceedings, if and to the extent that the Bankruptcy Court determines, after reviewing the evidence in the evidentiary hearing, that the payments by the Advertisers or Advertising Agencies for the cost of the Metro-Placed Ads published by tronc were not property of the estate, for all such payments received by Metro or Versant post-petition for the services rendered by tronc, or otherwise under 11 U.S.C. §§ 503(b)(3)(B) and (D) [ECF 96], all of which Metro and Versant dispute and contest (collectively, the "tronc Admin Claims").

The Debtor has asserted that it disputes or will dispute and/or will seek to equitably subordinate the tronc Claim and the tronc Admin Claim.

On or around June 22, 2017, the Debtor filed a Complaint in the Bankruptcy Court at Adv. No. 17-8239-rdd against tronc asserting that alleged transfers in the aggregate amount of $568,721.97 were avoidable preferential payments (the "tronc Preference Action") [Adv. ECF No. 1]. On or around October 16, 2017, tronc filed its answer in the tronc Preference Action denying any liability related to the avoidance and damage claims asserted in the Preference

Action against tronc [Adv. ECF No. 6]. Moreover, tronc has provided the Debtor with an analysis of one of its defenses to the Preference Action against tronc, claiming that its new value defenses alone constitute a complete defense to the amounts claimed by the Debtor in the Preference Action against tronc.

In September 2017 tronc acquired Daily News, L.P., which does business as the New York Daily News ("NYDN"), and Daily News, L.P. is currently an affiliate of tronc. NYDN filed a Proof of Claim in the amount of $138,895.73 (the "NYDN Claim") for services related to Metro-Placed Ads, including $9,611.05 for ads published subsequent to the Petition Date that NYDN asserts is entitled to priority as an administrative claim (the "NYDN Admin Claim"). The Debtor recently sent two letters to NYDN asserting that NYDN received two alleged preferential payments in the amounts of $29,531.98 and $16,500.59 (the "NYDN Preference Demand"). NYDN has disputed the NYDN Preference Demand and has provided the Debtor with an analysis of one of its defenses to the NYDN Preference Demand, claiming that its new value defenses alone constitute a complete defense to the amounts claimed by the Debtor in the NYDN Preference Demand.

The Court subsequently issued amended pre-trial scheduling orders and under the most recent one the Contested Proceedings (except for any damages issues if ever applicable) were scheduled for an evidentiary trial before the Bankruptcy Court on December 6 and (if necessary) December 7, 2017 (ECF Nos. 76 and 94).

Over the past several months, tronc and the Debtor engaged in extensive discovery, including party interrogatories and a massive document exchange between them, non-party document discovery, exchanged preliminary witness lists on October 16, 2017, and planned to commence multiple party and non-party depositions at the end of October with the goal to

complete those depositions by, or close to, the November 6 Court-ordered deadline, file pre-trial submissions in November and proceed to trial on December 6 and 7. Much discovery, and pre-trial and post-trial litigation had yet to occur, with the cost of such additional litigation efforts likely to be well into the hundreds of thousands of dollars for each side.

Understanding the material costs and risks faced by both sides, and the accumulating damages to Versant and claims of Versant against the Debtor from delayed or still uncollected account receivable, the parties (tronc, the Debtor, Versant, Cavaliere and Baratoff) commenced good-faith, arms-length settlement discussions, ultimately resulting in a settlement agreement in principle before depositions commenced.

In a further showing of good faith, the parties ceased discovery and postponed any depositions to save further litigation expense to the estate, tronc and non-parties, and focused instead on documenting the complex Settlement Agreement. The Debtor, tronc, Versant, Cavaliere and Baratoff have executed the Settlement Agreement dated as of November 3, 2017, and the Settlement Agreement is attached to the Plan and its terms are specifically incorporated into the Plan. The salient terms of the Settlement are discussed further below.

The Debtor plans to file a motion pursuant to the Federal Rule of Bankruptcy Procedure 9019 seeking approval of the Settlement Agreement so such motion may be heard by the Court on the same day as the hearing at which the Court will determine whether to confirm the Plan (*i.e.*, **December 6, 2017 at 10:00 a.m.)**. Confirmation of the Plan requires approval of the Settlement Agreement and approval of the Settlement Agreement requires confirmation of the Plan.

tronc and the Debtor agreed to ask the Court to adjust the pre-trial schedule in the Contested Proceedings to allow the Court to first consider the confirmation of the Plan and the approval of the Settlement Agreement.

12. The Salient Terms of the Settlement Agreement Among the Debtor, tronc, Versant, Cavaliere and Baratoff

In summary, the Settlement Agreement will resolve, among other things, the Contested Proceedings with tronc, the Preference Action against tronc, NYDN Preference Demand, claims between the Debtor and Versant, claims between Versant and Baratoff and Cavaliere, and related disputes. The Settlement Agreement will, *inter alia*, bring significant monies into the estate and provide for the waiver of a variety of pre-petition, post-petition and secured claims against the Debtor without the significant cost, risk and uncertainty of results of further litigation. Such payment and reduction of claims, combined with other expected recoveries by the estate, should allow the estate to fully satisfy all Administrative and Priority Claims and also distribute funds to unsecured creditors under the Plan. If, however, the Settlement Agreement is not approved and the estate does not prevail in the Contested Proceedings and collect substantial damages from tronc (a highly uncertain outcome), then the estate could face significant erosion and reduced distributions to creditors.

Subject to the Settlement Effective Date (as defined therein), the salient terms of the Settlement Agreement are as follows with the actual terms of the Settlement Agreement controlling if there is any difference between the summary below and the Settlement Agreement**:**

a. Versant shall pay $350,000 to the Debtor's estate;

b. Versant shall release and waive any and all claims (administrative or otherwise), liens and security interests against Debtor under the Pre-Petition Versant Factoring Agreements or the Versant Post-Petition DIP Factoring Agreements or otherwise, including, but not limited to, claims for termination fees that may be in excess of $2 million;

c. tronc shall withdraw its Relief from Stay Motion with that motion being deemed resolved by the Settlement Agreement;

d. the Debtor shall withdraw the Debtor's Stay Violation Motion with that motion being deemed resolved by the Settlement Agreement;

e. The Debtor shall dismiss the Preference Action against tronc with prejudice with such action being deemed resolved by the Settlement Agreement;

f. The Debtor shall be deemed to withdraw with prejudice and release, waive or otherwise discharge any and all rights, claims or interests it may have in the NYDN Preference Demand;

g. the tronc Parties shall waive any and all rights, claims or causes of action they may have or maintain against the Advertisers, any Advertising Agencies or anyone else relating solely to the Metro-Placed Ads or the Factored Receivables and tronc agrees that it and NYDN will not pursue collection of any receivables or monies relating to or arising out of or related to the Metro-Placed Ads or the Factored Receivables and will otherwise be barred from pursuing any such collection, including being barred from pursuing any claims or causes of action which may result in claims against the Debtor Parties or the Cavaliere and Baratoff Parties arising out of or relating to the Metro-Placed Ads or Factored Receivables, but excluding the tronc Payment and the allowed tronc Claims as provided in this Settlement Agreement;

h. tronc shall reserve and shall be deemed to reserve, and not waive, any and all other rights and remedies tronc and NYDN have against any and all of the Advertisers, any other advertisers, advertising agencies or anyone else for any ads, inserts, digital placements or other advertising services now or in the future provided by tronc or otherwise placed in the tronc Publications (including the NY Daily News) that do not relate to any Metro Placed Ads or the Factored Receivables even if the Advertisers, other advertiser, advertising agency or other person or entity used Metro for the Metro-Placed Ads or for other Metro services;

i. the tronc Letters shall be deemed permanently rescinded with prejudice, without any further requirement or need for tronc or any other Party to send additional correspondence to any advertiser, agency or any other third party;

j. tronc shall release, waive, or otherwise discharge any and all rights, claims or interests it has or may have related to the tronc Admin Claims (as defined in the Settlement Agreement), including an administrative claim against the estate for $3,971.61 due tronc for Ads

published post-petition, and any claims under Code Section 503(b);

k. NYDN shall release, waive or otherwise discharge any and all rights, claims or interests it has or may have related to the NYDN Admin Claim, which was for $9,611.05 (other than its rights, claims and interests in the amount of the NYDN Claim being treated as an allowed general unsecured non-priority claim);

l. Versant shall pay tronc $100,000;

m. tronc shall have an allowed pre-petition general unsecured, non-priority claim against the Debtor in the amount of its scheduled claims ($2,242,798.38) for tronc services related to the Metro-Placed Ads which were placed prior to the Petition Date [ECF No. 21] and NYDN shall be an allowed general unsecured, non-priority claim against Debtor in the amount of $138,895.73 (defined in the Settlement Agreement as the "**tronc Claims**"), and the allowed tronc Claim shall receive the same treatment under the Plan, without discrimination, as all other Allowed General Unsecured (Class 3) Claims, as applicable, with all attendant rights provided by the Bankruptcy Code and other applicable law, and shall not be entitled to any priority in distribution over other Class 3 Allowed General Unsecured Claims, as applicable, with the exception that, tronc shall have waived the right to collection, at the time of any cash distribution on account of the tronc Claim, to the first $100,000 of any such cash distribution to which tronc is otherwise entitled under the Plan, which amount will be distributed to the remaining Class 3 Allowed General Unsecured Claimants; in addition, in no event shall any other portion of the allowed tronc Claim or any portion of the NYDN Claim be reduced or subordinated to any other Class 3 Allowed General Unsecured Claim;

n. The Plan and the Disclosure Statement shall be revised by the Debtor to: (1) reflect and incorporate the terms of this Settlement Agreement; (2) be impartial or otherwise unbiased regarding tronc, tronc's actions and the Contested Proceedings and Preference Action against tronc; (3) recognize the substantial contribution of Cavaliere and Baratoff in providing consideration for this Settlement Agreement and the management of the Chapter 11 case; and (4) otherwise be acceptable to tronc, Versant, Cavaliere, Baratoff and Debtor, and if there is any conflict between the Plan and the Settlement Agreement, the Settlement Agreement shall control;

o. tronc shall vote its allowed unsecured claim in favor of the Debtor's Plan provided the terms and spirit of the Settlement Agreement are incorporated into the Plan and the Plan is not materially changed or amended except as set forth above;

p. Cavaliere shall waive any right to payment on account of the Cavaliere Pre-Petition Loans, the Pre-Petition Claim (except as preserved herein), the Cavaliere DIP Loan and for any claim for substantial contribution under Section 503(b)(3) of the Bankruptcy Code or otherwise (including for wages or other compensation) (the "Cavaliere Settlement Contribution"), but Cavaliere shall not waive, and expressly preserves, all claims against the Debtor and the estate for subrogation, indemnity, contribution or otherwise, arising from or related to Cavaliere's pre and post-petition role as an officer, director or employee of the Debtor, including but not limited to as a result of the Debtor or any successor of the Debtor, including any official committee or trustee appointed in this case or any subsequent case, pursuing any claims against the Cavaliere Parties or the Baratoff Parties (as defined and specified in the Settlement Agreement), or any other party; moreover, for the avoidance of doubt, the Cavaliere Preserved Claims do not include claims to recover any portion of the Cavaliere Settlement Contribution or otherwise share in any distribution to Allowed General Unsecured (Class 3) Claims (as amended), but all of Cavaliere's rights, remedies, and claims with respect to and under the D&O Policy are preserved;

q. Baratoff shall waive any right to payment on account of any pre-petition claims and for any claim for substantial contribution under Section 503(b)(3) of the Bankruptcy Code or otherwise (including for wages or other compensation), but Baratoff shall not waive, and expressly preserves, all claims against the Debtor and the estate for subrogation, indemnity, contribution or otherwise, arising from or related to Baratoff's pre and post-petition role as an officer, director or employee of the Debtor, including but not limited to as a result of the Debtor or any successor of the Debtor, including any official committee or trustee appointed in this case or any subsequent case, pursuing any claims against the Cavaliere Parties or the Baratoff Parties (as defined and specified below), or any other party; moreover, for the avoidance of doubt, the Baratoff Preserved Claims do not include claims to recover any portion of the Baratoff Settlement Contribution (as defined in the Settlement Agreement) or otherwise share in any distribution to Allowed General Unsecured (Class 3) Claims (as amended), but all of Baratoff's rights, remedies, and claims with respect to and under the D&O Policy are preserved;

r. Baratoff agrees to pay $155,500 to Versant by providing a mortgage note and mortgage for the future payment of that sum to Versant as more fully set forth in the Settlement Agreement, and that payment is part of what is defined as the Baratoff Settlement Contribution in the Settlement Agreement;

s. tronc, Debtor, Versant, Cavaliere and Baratoff shall exchange various releases as more fully set forth in the Settlement Agreement, in the Plan and below; and

t. the Settlement Agreement shall become effective only when the following have occurred: (i) the Bankruptcy Court has approved the Settlement Agreement; (ii) confirmation of the Plan as amended to, among other things, incorporate the terms of this Settlement Agreement, and to incorporate provisions in the Plan required by Versant that ensures payment on the Plan Effective Date of amounts owed to Versant by Mediacom Worldwide LLC, Mindshare USA, LLC and GSD&M Idea City LLC as set forth in the complaint filed in the Bankruptcy Court at Adv. No. 17-8286-rdd (the "Outstanding Accounts Receivable"), and ensures irrevocable relinquishment of Horizon's right of Control over the Account under that certain letter agreement between Versant, the Debtor, and Horizon dated September 11, 2017, and full exercise of control over the Account, and receipt by Versant of all funds originally deposited therein either through withdrawal by Versant of the full amount originally deposited by Versant into the Account provided that Horizon has not previously withdrawn any of such original deposit or, if Horizon has made a withdrawal, then through payment by Horizon to Versant of any such withdrawn amount and the balance through Versant's withdrawal of the then remaining amount in the Account by Versant (the "Horizon Monies"); and (iii) the occurrence of the Plan Effective Date as defined in the Plan as so amended.

The Debtor has filed a motion with the Bankruptcy Court to approve the Settlement Agreement simultaneously with the request for confirmation of the Plan. The Debtor submits that the Settlement Agreement is in the best interests of all creditors in that it results in significant monetary payment to the estate combined with a release of various significant pre-petition, post-petition and secured claims against the estate. The Settlement Agreement also resolves ongoing

costly, time consuming and risk-laden litigation which would continue to drain the estate and its resources absent settlement. The Debtor submits that the Settlement Agreement therefore falls well above the lowest range of reasonableness standard required for approval of the Settlement Agreement and should therefore be approved by the Bankruptcy Court. **IN THE EVENT THAT THE BANKRUPTCY COURT DOES NOT APPROVE THE SETTLEMENT AGREEMENT, THE PLAN CANNOT BE CONFIRMED IN ITS CURRENT CONFIGURATION.**

13. Chapter 5 Preference Claims Other

The Debtor, in consultation with its professionals, have analyzed its books and records to determine whether any causes 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. The Reorganized debtor and the Creditors' Representative shall prosecute all Causes of Action.

On June 22, 2017, the Debtor commenced an adversary proceeding against Gannett seeking recovery of preferential payments (Adv. Pro. No. 17-8238, respectively), seeking recovery in the aggregate amount of $594,617.81. The Debtor has reached a settlement agreement with Gannett subject to Court approval to settle the preference action against Gannett for $67,500 and the waiver by Gannett of any and all administrative expenses or post-petition claims against the Debtor arising from certain post-petition advertising provided to the Debtor in the amount of $13,620. On November 1, 2017, the Debtor filed a motion to approve that Gannett settlement (ECF No. 129).

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. The Creditors' Representative will prosecute the D&O Claims.

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 $50,000.

2. Allowed DIP Lender Claim

The DIP Lender Claim constitutes the Administrative Claim of Cavaliere for her post-petition DIP Loan in the approximate amount of $25,000. The DIP Lender Claim will be waived and released on the Effective Date of the Plan and under the Settlement Agreement.

3. Versant Post-Petition Claims. The Versant Post-Petition Claims constitute the Administrative Claims of Versant arising out of certain post-petition factoring agreements between the Debtor and Versant that were approved by the Bankruptcy Court and the Debtor's defaults thereunder. The Versant Post-Petition Claims in the approximate asserted amount of $1,000,000 will be waived and released on the Effective Date of the Plan and under the Settlement Agreement.

4. 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 $500,000, representing net unpaid professional fees incurred through the Effective Date as follows: (i) DelBello Donnellan Weingarten Wise & Wiederkehr, LLP - $400,000, (ii) Lowenstein Sandler LLP - $75,000, and (iii) Paul Gertleman CPA - $25,000.

5. 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.

6. *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 the Secured Claims of Versant pursuant to the pre-petition factoring agreement with the Debtor. Class 1 Claims of Versant in the asserted approximate amount of $1,000,000 will be waived and released on the Effective Date of the Plan and under the Settlement Agreement. 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 $30,000. 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 in full of all Allowed unclassified, Class 1 Claims, Class 2 Claims, and the Post-Confirmation Date Reserve, subject to the provisions in the Settlement Agreement as to tronc's Class 3 Claim and Cavaliere's Class 3 Claim, respectively. If, however, the Settlement Agreement is not approved by the Bankruptcy Court, Cavaliere's Class 3 Claim, to the extent Allowed, shall be paid Pro Rata with all other Allowed Class 3 Claims. The Debtor estimates that Class 3 Claims total approximately $13,000,000, with

an estimated, approximate 5 -10% Pro Rata distribution. *See **Exhibit B** annexed to this Disclosure Statement for the Debtor's Plan Distribution Analysis.* Class 3 Claims are Impaired under the Plan and are allowed to vote on the Plan.

4. Class 4: Interests

Interests are holders 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 sixty (60) 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 and the Creditors' Representative 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) money that the Debtor expects to receive under the Settlement Agreement, 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 Rust/Omni Management (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 Disbursing 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. Causes Of Action

The Reorganized Debtor and the Creditors' Representative (defined below) shall have the exclusive right, power, authority and standing to pursue all Causes of Action and shall commence such actions no later than one hundred fifty (150) days after the Effective Date, unless otherwise extended by the Bankruptcy Court after notice and a hearing, with notice only to those parties entitled to notice in the Chapter 11 Case pursuant to Bankruptcy Rule 2002. Proceeds recovered from all Causes of Action will be deposited into the Plan Distribution Fund and shall be used to pay outstanding professional fees and expenses incurred by the Reorganized Debtor or the Creditors' Representative in connection with the prosecution of Causes of Action, subject to review for reasonableness, and to fund distributions in accordance with this Plan.

On or before the Confirmation Date, the Creditors' Committee shall designate a Person, which may be a member of or counsel to the Creditors' Committee, to act as the post-Effective Date creditors' representative ("Creditors' Representative"). Upon the occurrence of the assignment of the D&O Claims to the Creditors' Representative pursuant to Article 7.4 above, the Creditors' Representative shall be, and is deemed to be, an assignee of the Creditors' Committee for all purposes, including but not limited to the right to investigate, pursue, assert, prosecute, and settle any D&O Claims, and as such, shall have all requisite power, authority, and standing to investigate, pursue, assert, prosecute, and settle any D&O Claims without further order of this or any other court. The Creditors' Representative shall also have all of the rights afforded to the Creditors' Committee to investigate, pursue, prosecute, and settle D&O Claims and further, shall have also all of the rights afforded to the Reorganized Debtor under this Amended Plan, including, without limitation, with respect to the review, analysis, prosecution and settlement of Causes of Action.

From and after the Effective Date, the Creditors' Representative shall have the right to direct the Reorganized Debtor to commence any Cause of Action, and in the event that the Reorganized Debtor fails and/or refuses to do so, the Creditors' Representative shall have the right, legal authority and requisite standing as statutory trustee of the Reorganized Debtor for the limited purpose of commencing such actions without the need for obtaining prior approval of the Bankruptcy Court. Any professional fees and expenses (i) incurred by the Creditors Representative in connection with the performance of his/her duties as set forth herein, and (ii) in connection with the prosecution of any of the Causes of Action shall be paid from the proceeds of such recoveries, and if necessary, from Professional Fee Reserve or other funds held by the Reorganized Debtor and its estate. The Creditors' Representative, as assignee of the Creditors' Committee, shall survive the termination of the Committee pursuant to Section 13.1 of this Amended Plan and shall, accordingly, remain in place and shall continue to perform his/her duties as set forth in this Amended Plan, including with respect to prosecution of D&O Claims and other Causes of Action, notwithstanding the termination of the Committee. Notwithstanding anything to the contrary in this Amended Plan, the Creditors' Representative, as assignee of the Creditors' Committee, shall have the authority, right and standing to bring any and all D&O Claims that may be assigned to him/her by the Creditors' Committee, which D&O Claims shall vest in the Creditors' Representative upon the Effective Date.

Notwithstanding any of the foregoing to the contrary, (a) upon the Effective Date, the Debtor, on its behalf and on behalf of its pre- and post-Confirmation Date estate, and Versant and Mark D. Weinberg (collectively in this Article XI, "Versant") forever and permanently release, waive and forego any Causes of Action which arose at any time against Horizon (regardless of whether the Debtor, Versant or any party on their behalf has at any time asserted

any Cause of Action against Horizon), (b) the Debtor and Versant represent and warrant to Horizon that, as of the Effective Date, they have not ever nor shall assign or transfer any interest in any Cause of Action against Horizon, and (c) upon and after the Effective Date, neither the Debtor nor Versant shall assert, bring, raise or prosecute, and are (together with all successors and assigns of the Debtor and Versant) hereby permanently enjoined from asserting, bringing, raising or prosecuting, or attempting to do so, for any purpose, including defensively, any Cause of Action arising at any time against Horizon, subject to, and on the express condition that the following occur, (i) the irrevocable relinquishment of Horizon's right of Control over the Account (as such terms are defined in that certain letter agreement between Versant Funding LLC, the Debtor and Horizon dated September 11, 2017; the "Letter Agreement"), including Horizon taking all steps necessary, and executing and delivering all documents necessary, to effect the relinquishment of such Control, (ii) Versant having the ability to exercise full control over the Account and irrevocably withdraw and receive the full amount of all funds originally deposited into such Account plus interest, if any, that has accrued thereon, and (iii) Versant having irrevocably received payment in full of all amounts that Horizon owed to Versant as described in the Letter Agreement so that Versant does not need to pursue payment or commence any action to collect such payment from Horizon. The provisions of the immediately preceding sentence shall be effective immediately upon the Effective Date (including against the Debtor, Horizon Versant and any successors or assigns), and shall be continuing, permanent and irrevocable as of such date, regardless of any default (including any Event of Default) under the Plan, the lack or status of consummation of the Plan, the conversion of the Chapter 11 Case to a case under any other chapter of the Bankruptcy Code, the dismissal of the Chapter 11 Case, or any other reason. Versant is authorized and directed to take all steps necessary and to execute,

and to cause Horizon to execute, any and all documents reasonably necessary to effectuate the relinquishment of Horizon's right of Control as specified hereunder. Notwithstanding the foregoing, or any other provision of the Plan, nothing in this section of the Plan or the Plan shall limit or affect Versant's or the Debtor's right and standing to enforce all obligations of Horizon pursuant to the Plan or, for the sake of clarity, Versant's and the Debtor's right and standing to take any action necessary to ensure that Versant has been paid in full by Horizon (and Horizon has paid in full) the amount set forth as owing to Versant in the Letter Agreement, it being the intent and purpose of the Plan to ensure that Versant is paid in full by Horizon and that Horizon does not avoid in any manner whatsoever paying Versant in full.

In addition, upon the Effective Date, Horizon shall be automatically deemed to (a) fully and forever irrevocably relinquish its right of Control over the Account (as defined in the Letter Agreement) and (b) fully and forever release the Debtor, its estate, Versant (including Mark D. Weinberg as guarantor of Versant obligations or otherwise), and its respective agents, employees, directors, shareholders, representatives, agents, attorneys and assigns from any and all Claims, causes of action, interest or otherwise arising out of its dealings with the Debtor or the Letter Agreement, respectively. The provisions of the immediately preceding sentence shall be effective immediately upon the Effective Date (including against Horizon and any successors or assigns), and shall be continuing, permanent and irrevocable as of such date, regardless of any default (including any Event of Default) under the Plan, the lack or status of consummation of the Plan, the conversion of the Chapter 11 Case to a case under any other chapter of the Bankruptcy Code, the dismissal of the Chapter 11 Case, or any other reason. Horizon is authorized and directed to take all steps and to execute any and all documents reasonably necessary to effectuate the relinquishment of its right of Control hereunder. Notwithstanding

the foregoing, nothing in this paragraph shall limit or affect Horizon's right and standing to enforce all obligations of the Debtor and Versant pursuant to the 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 15, 2017 at the following address:

Rust Consulting/Omni Bankruptcy
5955 DeSoto Avenue, Suite 100
Woodland Hills, Calif. 91367
c/o Metro Newspaper Balloting

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. Third Parties Releases and "Opt In" Provisions

The Plan provides for releases of various third parties and injunctions preventing creditors form pursuing certain claims against parties other than the Debtor. Confirmation of the Plan will, among other things, result in the releases being granted and the injunctions becoming valid and enforceable, to the extent provided for under the Plan, on all creditors of the Debtor.

Check the box on Item 3 on the Ballot if you elect <u>to</u> grant the releases contained in Article XII of the Plan. Election to give consent is at your option. If you submit the Ballot without this box checked, or do not submit a Ballot, you will be deemed <u>not</u> to grant the releases, regardless of whether you vote to accept or reject the Plan. Electing not to grant the releases <u>will not</u> impact your eligibility to receive distributions under the Plan.

D. 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.

E. 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 THE 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.

To the extent permitted under Section 1125(e) of the Bankruptcy Code, except as otherwise specifically provided in the 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 the 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 the Plan or distributions made pursuant to the 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. Releases of Exculpated Parties

To the extent permitted under Section 1125(e) of the Bankruptcy Code, as of the Effective Date and upon the distributions contemplated in the Plan and except as set forth in the Plan, each holder of a Claim or Interest that timely submits a properly executed Ballot with the "BY CHECKING THIS BOX, I ELECT TO GRANT THE RELEASES" checkbox in Item 3 clearly marked 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 the 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, bad faith, breach of fiduciary duty, malpractice, fraud, criminal conduct, unauthorized use of confidential information that causes damages, and/or ultra vires acts. For the avoidance of doubt, no provision of the 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. 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.

Releases Among Horizon, Versant and the Debtor. Under the Plan (a) upon the Effective Date, the Debtor, on its behalf and on behalf of its pre- and post-Confirmation Date estate, and Versant and Mark D. Weinberg (collectively defined in Article XI, of the Plan as "Versant") forever and permanently release, waive and forego any Causes of Action which arose at any time against Horizon (regardless of whether the Debtor, Versant or any party on their behalf has at any time asserted any Cause of Action against Horizon), (b) the Debtor and Versant represent and warrant to Horizon that, as of the Effective Date, they have not ever nor shall assign or transfer any interest in any Cause of Action against Horizon, and (c) upon and after the Effective Date, neither the Debtor nor Versant shall assert, bring, raise or prosecute, and are (together with all successors and assigns of the Debtor and Versant) hereby permanently enjoined from asserting, bringing, raising or prosecuting, or attempting to do so, for any purpose, including defensively, any Cause of Action arising at any time against Horizon, subject to, and on the express condition that the following occur, (i) the irrevocable relinquishment of Horizon's right of Control over the Account (as such terms are defined in that certain letter agreement between Versant Funding LLC, the Debtor and Horizon dated September 11, 2017;

the "Letter Agreement"), including Horizon taking all steps necessary, and executing and delivering all documents necessary, to effect the relinquishment of such Control, (ii) Versant having the ability to exercise full control over the Account and irrevocably withdraw and receive the full amount of all funds originally deposited into such Account plus interest, if any, that has accrued thereon, and (iii) Versant having irrevocably received payment in full of all amounts that Horizon owed to Versant as described in the Letter Agreement so that Versant does not need to pursue payment or commence any action to collect such payment from Horizon. The provisions of the immediately preceding sentence shall be effective immediately upon the Effective Date (including against the Debtor, Horizon Versant and any successors or assigns), and shall be continuing, permanent and irrevocable as of such date, regardless of any default (including any Event of Default) under the Plan, the lack or status of consummation of the Plan, the conversion of the Chapter 11 Case to a case under any other chapter of the Bankruptcy Code, the dismissal of the Chapter 11 Case, or any other reason. Versant is authorized and directed to take all steps necessary and to execute, and to cause Horizon to execute, any and all documents reasonably necessary to effectuate the relinquishment of Horizon's right of Control as specified hereunder. Notwithstanding the foregoing, or any other provision of the Plan, nothing in the applicable section of the Plan or the Plan shall limit or affect Versant's or the Debtor's right and standing to enforce all obligations of Horizon pursuant to this Plan or, for the sake of clarity, Versant's and the Debtor's right and standing to take any action necessary to ensure that Versant has been paid in full by Horizon (and Horizon has paid in full) the amount set forth as owing to Versant in the Letter Agreement, it being the intent and purpose of the Plan to ensure that Versant is paid in full by Horizon and that Horizon does not avoid in any manner whatsoever paying Versant in full.

In addition, upon the Effective Date, Horizon shall be automatically deemed to (a) fully and forever irrevocably relinquish its right of Control over the Account (as defined in the Letter Agreement) and (b) fully and forever release the Debtor, its estate, Versant (including Mark D. Weinberg as guarantor of Versant obligations or otherwise), and its respective agents, employees, directors, shareholders, representatives, agents, attorneys and assigns from any and all Claims, causes of action, interest or otherwise arising out of its dealings with the Debtor or the Letter Agreement, respectively. The provisions of the immediately preceding sentence shall be effective immediately upon the Effective Date (including against Horizon and any successors or assigns), and shall be continuing, permanent and irrevocable as of such date, regardless of any default (including any Event of Default) under the Plan, the lack or status of consummation of the Plan, the conversion of the Chapter 11 Case to a case under any other chapter of the Bankruptcy Code, the dismissal of the Chapter 11 Case, or any other reason. Horizon is authorized and directed to take all steps and to execute any and all documents reasonably necessary to effectuate the relinquishment of its right of Control hereunder. Notwithstanding the foregoing, nothing in this paragraph shall limit or affect Horizon's right and standing to enforce all obligations of the Debtor and Versant pursuant to this Plan.

Releases Related to, and Set Forth in, the Settlement Agreement and included in the Plan Among the Debtor, tronc, Versant, Cavaliere and Baratoff. The Settlement Agreement sets forth releases between and among the parties thereto, and those releases are also fully set forth here below. All initial capitalized defined terms in the releases set forth here below are defined in the Settlement Agreement annexed to the Plan.

Each of the following releases shall be effective upon the occurrence of the Settlement Effective Date. The following releases shall NOT apply to any claim to enforce the terms of this Settlement Agreement, the allowed tronc Claim and the tronc Payment under the terms of this Settlement Agreement, rights and obligations under the Baratoff Note and the Baratoff

Mortgage, the Cavaliere Preserved Claims, the Baratoff Preserved Claims, and Versant's right to collect any receivables purchased by Versant from Metro or collect or receive monies relating to such receivables, nor shall the following releases release or otherwise impact any D&O Claims.

a. Debtor Releases.

i. Debtor Release of tronc. Debtor on its own behalf, and on behalf of the Bankruptcy Estate and Debtor's predecessors, successors, affiliates, officers, directors, employees, attorneys, and agents, including any committee or trustee appointed in this bankruptcy case or in any subsequent or converted bankruptcy case (and each of them, past and present collectively, the "Debtor Parties"), for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge tronc and its predecessors, successors, affiliates (including NYDN), officers, directors, employees, attorneys, and agents (and each of them, past and present, the "tronc Parties") from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Debtor Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the tronc Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.

ii. Debtor Release of Versant. The Debtor Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge Versant and its predecessors, successors, affiliates, officers, directors, employees, attorneys, and agents (and each of them, past and present, the "Versant Parties") from any and all claims, actions, allegations, known or unknown, asserted or unasserted, causes of action, demands, rights or liabilities whatsoever which any of the Debtor Parties now have, have had, or in the future may have, against any of the Versant Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or

which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.

iii. <u>Debtor Release of Cavaliere and Baratoff Parties.</u> The Debtor Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge Cavaliere and Baratoff, in their individual capacity and as officers, directors, shareholders or members of the Debtor and any affiliated or related entity, and their respective predecessors, successors, assigns, representatives, agents, professionals, and heirs and personal representatives (and each of them, past and present, (respectively, the "Cavaliere Parties" and the "Baratoff Parties" and together the "Cavaliere and Baratoff Parties") from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Debtor Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the Cavaliere and Baratoff Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters, other than the D&O Claims.

b. <u>tronc Releases.</u>

i. <u>tronc Release of the Debtor Parties, the Versant Parties, and the Cavaliere and Baratoff Parties.</u> The tronc Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the Debtor Parties, the Versant Parties and the Cavaliere and Baratoff Parties, from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the tronc Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the Debtor Parties, the Versant Parties and the Cavaliere and Baratoff

Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.

c. Versant Releases.

i. Versant Release of tronc. ***The Versant Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the tronc Parties from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Versant Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the tronc Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.***

ii. Versant Release of Debtor. ***The Versant Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the Debtor Parties from any and all claims, actions, allegations, causes of action, demands, liens, security interests, rights or liabilities whatsoever which any of the Versant Parties now have, have had, or in the future may have, known or unknown asserted or unasserted, against any of the Debtor Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the***

Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.

iii. ***Versant Release of Cavaliere and Baratoff Parties.*** ***The Versant Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the Cavaliere and Baratoff Parties from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Versant Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the Cavaliere and Baratoff Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.***

d. ***Baratoff and Cavaliere Releases.***

i. ***Cavaliere and Baratoff Release of tronc Parties.*** ***The Cavaliere and Baratoff Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the tronc Parties from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Cavaliere and Baratoff Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the tronc Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales***

or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.

ii. ***Cavaliere and Baratoff Release of Versant Parties.*** ***The Cavaliere and Baratoff Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the Versant Parties from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Cavaliere and Baratoff Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the Versant Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor.***

iii. ***Cavaliere and Baratoff Release of Debtor Parties.*** ***The Cavaliere and Baratoff Parties, for good, valid and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, fully, finally, unconditionally, irrevocably and forever release, waive and discharge the Debtor Parties from any and all claims, actions, allegations, causes of action, demands, rights or liabilities whatsoever which any of the Cavaliere and Baratoff Parties now have, have had, or in the future may have, known or unknown, asserted or unasserted, against any of the Debtor Parties arising out of or related to the facts and/or circumstances asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, and/or which could have been asserted in the Contested Proceedings, the NYDN Preference Demand or the Preference Action, or otherwise arising out of or relating to the Pre-Petition Factoring Agreement, the Post-Petition Factoring Agreement, the Metro-Placed Ads and any and all services, sales or collections related to such Metro-Placed Ads, the tronc Letters and the business and operations of the Debtor, other than the Cavaliere Preserved Claims and the Baratoff Preserved Claims.***

3. Plan Injunction

Effective on the Effective Date, all persons who (a) have held, hold or may hold Claims against the Debtor, regardless of classification or treatment under this Plan (on account of or related to such Claim(s)), or (b) have or may become liable for any Causes of Action of the Debtor, arising before or after the Petition Date (a "Debtor Cause of Action") (on account of or related to such liability), are, together with all successors, assignees and subrogees of the persons described in clauses (a) and (b), permanently and irrevocably enjoined from taking, causing, supporting or facilitating any of the following actions against or affecting (x) the Debtor or assets of the Debtor, except as otherwise set forth in the Plan, (y) any advertising agency (principal or otherwise) or customer of the Debtor, including but not limited to Horizon, Mediacom Worldwide LLC ("MW"), Mindshare USA, LLC ("MUSA") and GSD&M Idea City LLC ("GSD"), or (z) Versant (as defined in Article XI of the Plan) as purchaser or assignee of the Debtor's accounts receivable:

(i) Commencing, conducting or continuing in any manner, directly or indirectly, any suit, action, arbitration, or other proceeding of any kind against the Debtor or any advertiser (principal or otherwise), advertising agency or customer of the Debtor, including but not limited to Horizon, MW, MUSA and GSD, or Versant seeking payment for (1) advertisement placements by, through or on behalf of the Debtor, (2) any products or services offered, provided or invoiced at any time by or on behalf of the Debtor, (3) any Claim against the Debtor, or (4) any indemnification, contribution or other recovery sought on account of any Debtor Cause of Action;

(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

or any advertiser (principal or otherwise), advertising agency or customer of the Debtor, including but not limited to Horizon MW, MUSA or GSD, or Versant on account of or relating to (1) advertisement placements by, through or on behalf of the Debtor, (2) any products or services offered, provided or invoiced at any time by or on behalf of the Debtor, (3) any Claim against the Debtor, or (4) any indemnification, contribution or other recovery sought on account of any Debtor Cause of Action;

(iii) Creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the assets of the Debtor or any advertiser (principal or otherwise), advertising agency or customer of the Debtor, including but not limited to Horizon, MW, MUSA or GSD, or Versant on account of or relating to (1) advertisement placements by, through or on behalf of the Debtor, (2) any products or services offered, provided or invoiced at any time by or on behalf of the Debtor, (3) any Claim against the Debtor, or (4) any indemnification, contribution or other recovery sought on account of any Debtor Cause of Action; and

(iv) Proceeding in any manner and any place whatsoever that does not conform to or comply with the provisions of this Plan. The injunction set forth above in section 12.4 of the Plan (the "Injunction") shall be fully enforceable and effective against all persons described above, and shall be enforceable by all persons who benefit from such injunction, including without limitation, Horizon, MW, MUSA and GSD and Versant and each such benefitted person shall have immediate, independent standing, without the need to notify, join or otherwise involve the Debtor or any other beneficiary of the Injunction, to enforce such Injunction against all persons subject to it. All persons who benefit from the Injunction are recognized third party beneficiaries of section 12.4 of the Plan. The Injunction shall be effective immediately upon the

Effective Date, and shall be continuing, permanent and irrevocable as of such date, regardless of any default (including any Event of Default (defined below)) under the Plan, the lack or status of consummation of the Plan, the conversion of the Chapter 11 Case to a case under any other chapter of the Bankruptcy Code, the dismissal of the Chapter 11 Case, or any other reason.

To the extent any section or other provision of this Plan is inconsistent with this section 12.4 of the Plan, this section 12.4 of the Plan shall govern and control to the exclusion of such inconsistent section or other provision. Notwithstanding anything in the foregoing section 12.4 of the Plan, or any other provision of the Plan, nothing in the foregoing section 12.4 of the Plan or any other provision of the Plan shall limit, affect or enjoin in any manner whatsoever Versant's and the Debtor's right and standing to (a) take any action necessary to ensure that Versant has been paid in full by Horizon (and Horizon has paid in full) the amount set forth as owing to Versant in the certain Letter Agreement (defined in the Plan), it being the intent and purpose of the Plan to ensure that Versant is paid in full by Horizon and that Horizon does not avoid in any manner whatsoever paying Versant in full, and/or (b) take any action necessary to ensure that Versant has been paid in full by each of MW, MUSA and GSD (and each of MW, MUSA and GSD has paid in full) the amount set forth as owing to Versant in the complaint filed in the Bankruptcy Court at Adv. No. 17-8286-rdd against MW, MUSA and GSD (which adversary proceeding may be continued by Versant and the Debtor, if necessary), it being the intent and purpose of the Plan to ensure that Versant is paid in full by each of MW, MUSA and GSD and that each of MW, MUSA and GSD do not avoid in any manner whatsoever paying Versant in full, including all amounts demanded in the complaint filed in the Bankruptcy Court at Adv. No. 17-8286-rdd.

4. Limitation on Recovery on D&O Claims.

Any recovery from the Cavaliere Parties or the Baratoff Parties on account of the D&O Claims shall be limited to available insurance under the D&O Policy. No Excluded Party shall be subject to any liability on account of the D&O Claims that is not covered under the D&O Policy, is disallowed under the D&O Policy, exceeds coverage limits under the D&O Policy, or which would result in any Person having a Claim against any of the Excluded Parties for subrogation, indemnity, contribution, or reimbursement.

5. Justification of The Debtor Releases, Third-Party Releases, Exculpation, and Injunction Provisions of the Plan and Related Case Law

Under Articles XI and XII of the Plan, and as set forth in detail in Section III. G and this Section V of this disclosure statement, the Plan provides for (a) releases of certain Claims and Causes of Action between and among the Debtor, Versant, tronc, Cavaliere and Baratoff in connection with and pursuant to the Settlement Agreement in exchange for the good and valuable consideration and the valuable waivers, releases and/or compromises, and (b) releases between and among the Debtor, Versant and Horizon in exchange for the good and valuable consideration and the valuable waivers, releases and/or compromises (all of the above persons and entities are the "Release Parties").

Articles XI and Section 12.5 of the Plan specifically provide for releases of certain claims and Causes of Action in favor of and against the Release Parties in exchange for the good and valuable consideration and the valuable waivers, releases and/or compromises made by the Release Parties under the Settlement Agreement.

Articles 12.2 and 12.3 of the Plan, and as set forth in detail in this Section V of this disclosure statement, provides for the exculpation and release of each Exculpated Party for

certain acts or omissions taken in connection with the Chapter 11 Case subject to the limitations under Section 1125 and excluding claims arising out of bad faith, breach of fiduciary duty, malpractice, fraud., criminal conduct, unauthorized use of confidential information that causes damages and/or ultra vires acts. The Exculpated Parties are, in each case solely in their capacity as such: (i)(a) the Debtor, (b) the Reorganized Debtor, (c) the Creditors' Committee, and (c) with respect to each of the foregoing parties in clauses (i)(a), (i)(b) and (i)(c), each of such entity's current and former officers, directors, members, managers, employees, attorneys and advisors, in each case in their capacity as such, and only if serving in such capacity.

Article 12.4 of the Plan, and as set forth in detail in this Section V of this disclosure statement, provides for permanent injunction against certain entities who have held, hold, or may hold Claims or Interests that have been released pursuant to the Plan, or are subject to exculpation pursuant to the Plan, from asserting such Claims or Interests against the Debtor, any advertising agency or customer of the Debtor (including, inter alia, Horizon) or Versant on account of or relating to (1) advertisement placements by, through or on behalf of the Debtor, (2) any products or services offered, provided or invoiced at any time by or on behalf of the Debtor, (3) any Claim against the Debtor, or (4) any indemnification, contribution or other recovery sought on account of any Debtor Cause of Action all as more full set forth above and in the Plan.

The Plan provides that all holders of Claims or Interests who are entitled to vote on the Plan who vote to accept the Plan will be granting a release of certain claims or rights they have or may have as against the individuals and entities described above. The release that these holders of Claims or Interests will be giving is broad and it includes substantially any and all claims that such holders may have against the Release Parties, which in any way relate to the

Debtor, its operations either before or after the Chapter 11 Case began, and any transaction that the Release Parties had with the Debtors. Various holders of Claims or Interests who are entitled to vote on the Plan may have claims against a Release Party, or may be enjoined by the injunction under the Plan, and the Debtors express no opinion on whether a holder has a claim or the value of the claim nor does the Debtor take a position as to whether a holder should consent to grant this release or oppose any such injunction.

It is well-settled that debtors are authorized to settle or release their claims in a chapter 11 plan. *See In re Adelphia Commc'ns Corp.,* 368 B.R. 140, 263 n.289, 269 (Bankr. S.D.N.Y. 2007) (debtor may release its own claims); *In re Oneida Ltd.*, 351 B.R. 79, 94 (Bankr. S.D.N.Y. 2006) (noting that a debtor's release of its own claims is permissible). Debtor releases are granted by courts in the Second Circuit where the debtors establish that such releases are in the "best interests of the estate." *See In re Charter Commc'ns.*, 419 B.R. 221, 257 (Bankr. S.D.N.Y. 2009) ("When reviewing releases in a debtor's plan, courts consider whether such releases are in the best interest of the estate."). Courts often find that releases pursuant to a settlement are appropriate. *See, e.g.*, *In re Spiegel, Inc.*, 2005 WL 1278094, at *11 (approving releases pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019(a)); *In re AMR Corp.*, No. 11-15463 (SHL) (Bankr. S.D.N.Y. Oct. 22, 2013) (confirming chapter 11 plan containing releases of members, directors, officers and employees of the debtors as well as prepetition lenders that were party to a restructuring support agreement); *see also In re Bally Total Fitness Holding Corp.*, 2007 WL 2779438, at *12 ("To the extent that a release or other provision in the Plan constitutes a compromise of a controversy, this Confirmation Order shall constitute an order under Bankruptcy Rule 9019 approving such compromise."); *accord In re Adelphia Communications Corp.*, 368 B.R. 140, 263 n. 289 (Bankr. S.D.N.Y. 2007) ("The

Debtors have considerable leeway in issuing releases of any claims the Debtors themselves own."). Additionally, in the Second Circuit, third party releases are permissible where "truly unusual circumstances" render the release terms integral to the success of the plan. *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 142-43 (2d Cir. 2005). The determination is not a matter of "factors and prongs," but courts have provided some guidance for allowing third party releases. "Unusual circumstances" include instances in which: (a) the estate received a substantial contribution; (b) the enjoined claims were "channeled" to a settlement fund rather than extinguished; (c) the enjoined claims would indirectly impact the debtors' reorganization by way of indemnity or contribution; (d) the plan otherwise provided for the full payment of the enjoined claims; and (e) the affected creditors consent. *Id. at 141*. Courts typically allow releases of third party claims against non-debtors where there is the express consent of the party giving the release or where other circumstances in the case justify giving the release. *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 141 (2d Cir. 2005).

Finally, exculpation provisions that extend to prepetition conduct and cover non-estate fiduciaries are regularly approved. *See, e.g.*, *Oneida*, 351 B.R. at 94 & n.22 (considering an exculpation provision covering a number of prepetition actors with respect to certain prepetition actions, as well as post-petition activity). In approving these provisions, courts consider a number of factors, including whether the beneficiaries of the releases have participated in good faith in negotiating the plan and bringing it to fruition, and whether the provision is integral to the plan. *See In re Bearing Point, Inc.*, 435 B.R. 486, 494 (Bankr. S.D.N.Y. 2011) ("Exculpation provisions are included so frequently in chapter 11 plans because stakeholders all too often blame others for failures to get recoveries they desire; seek vengeance against other parties, or simply wish to second guess the decision makers."); *In re*

DBSD N. Am., Inc., 419 B.R. 179, 217 (Bankr. S.D.N.Y. 2009) (same), *aff'd*, *In re DBSD N. Am., Inc.,* No. 09-10156, 2010 WL 1223109 (S.D.N.Y. May 24, 2010), *aff'd in part, rev'd in part*, 634 F.3d 79 (2d Cir. 2011); *In re Bally Total Fitness*, 2007 WL 2779438, at *8 (finding exculpation, release, and injunction provisions appropriate because they were fair and equitable, necessary to successful reorganization, and integral to the plan); *In re WorldCom, Inc.*, No. 02-13533, 2003 WL 23861928, at *28 (Bankr. S.D.N.Y. Oct. 31, 2003) (approving an exculpation provision where it "was an essential element of the [p]lan formulation process and negotiations"); *In re Enron Corp.*, 326 B.R. 497, 203 (S.D.N.Y. 2005)(excising similar exculpation provisions would "tend to unravel the entire fabric of the Plan, and would be inequitable to all those who participated in good faith to bring it into fruition."

The Debtor believes that the releases, exculpations, and injunctions set forth in the Plan are appropriate because, among other things, the releases are narrowly tailored to the Debtor's' Plan effectuation, and each of the Release Parties has afforded considerable value to the Debtor in exchange for such releases in the form of , inter alia, waiver of significant claims against the estate, the cessation of costly, time-consuming and risk-laden litigation and the payment (or release conditioned on payment) of actual consideration (i.e., monies) to the estate or that benefits the estate, which waivers and payments will directly benefit all creditors of the Debtor under the Plan. Absent such releases, it is likely that the Debtor's creditors will recover significantly less (if anything at all) on account of their Claims than the amounts estimated herein. The Debtor further believes that such releases, exculpations, and injunctions are a necessary part of the Plan and will facilitate the satisfaction of the conditions to the effectiveness of the Plan. Without the injunction provisions of Section 12.4, the effectiveness

of the Plan could be materially delayed if not totally jeopardized and will require additional litigation (and administrative cost to the estate) with certain of the Release Parties and others. The Debtor will be prepared to meet their burden to establish the basis for the releases, exculpations, and injunctions for each Release Party and Exculpated Party as part of Confirmation of the Plan.

5. 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, and subject to the consent of the Creditors' Committee, 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;

(k) to enforce the terms and provisions of the Settlement Agreement and to resolve any disputes arising thereunder; and

(l) 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 Disbursing Agent within ten (10) days upon presentation of invoices for such professional services. The Creditors' Representative shall have the right to review and object to all post-Confirmation fees and expenses. 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
November 13, 2017

METRO NEWSPAPER ADVERTISING INC.

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