

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

In re:

THE NEWS-GAZETTE, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-11901 (KBO)

(Jointly Administered)

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**DEBTORS' PLAN OF LIQUIDATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: June 25, 2020

Wilmington, Delaware

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: The News-Gazette, Inc. (0894) and D.W.S., Inc. (7985). The Debtors' headquarters are located at 15 East Main Street, Champaign, Illinois 61820.

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TO BE INCLUDED IN THE PLAN SUPPLEMENT

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**DEBTORS' PLAN OF LIQUIDATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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The Debtors, as joint plan proponents, propose the following plan of liquidation for the resolution of the outstanding claims against and interests in the Debtors' bankruptcy estates. Reference is made to the Disclosure Statement with Respect to Debtors' Plan of Liquidation Under Chapter 11 of the Bankruptcy Code for a discussion of the history, business, properties, and operations of the Debtors, a summary and analysis of this Plan, risk factors related to this Plan, and certain related matters. This Plan follows the closing of the sale of substantially all of the Debtors' operating assets to Champaign Multimedia Group, LLC and contemplates the winddown and liquidation of the Debtors' remaining assets and distributions to creditors. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtors reserve the right to alter, amend, modify, revoke, or withdraw this Plan prior to its substantial consummation.

**ARTICLE I.**

**DEFINED TERMS AND RULES OF INTERPRETATION**

A. Defined Terms

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "*Administrative Bar Date*" means the date determined pursuant to Article V.G of this Plan.

2. "*Administrative Claims*" means Claims that have been timely Filed before the Administrative Bar Date, pursuant to the deadline and procedure set forth herein (except as otherwise provided herein or by a separate order of the Bankruptcy Court), for costs and expenses of administration under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, without limitation: (a) the actual and necessary costs and expenses incurred after the Petition Date and prior to the Effective Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries or commissions for services and payments for goods and other services); and (b) all fees and charges assessed against the Estates under 28 U.S.C. §1930; *provided, however*, that the U.S. Trustee shall not be required to File a request for payment of fees and charges assessed against the Estates under 28 U.S.C. § 1930 before the Administrative Bar Date. As used herein, the term "Administrative Claims" shall exclude Professional Compensation Claims.

3. "*Affiliate*" has the meaning set forth in section 101(2) of the Bankruptcy Code.

4. "*Allowed*" means, with respect to any Claim, except as otherwise provided herein: (a) a Claim that has been scheduled by the Debtors in their Schedules as other than "disputed, contingent or unliquidated" (as such terms are defined in the Schedules); (b) a proof of Claim that has been Filed and as to which the Debtors, the Reorganized Debtors, or other parties-in-interest have not Filed an objection by the applicable Claims Objection Bar Date; (c) a Proof of Claim that

is neither Disputed nor has been disallowed by a Final Order; (d) a Claim that is allowed pursuant to the terms of this Plan; (e) a Claim that is estimated pursuant to section 502(c) of the Bankruptcy Code, unless otherwise and explicitly provided by order of the Bankruptcy Court.

5. “*Asset Purchase Agreement*” means that certain *Asset Purchase Agreement* dated as of August 27, 2019, made by and among the Debtors and the Purchaser, as amended (including ancillary documents).

6. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought on behalf of the Debtors or the Reorganized Debtors or their Estates under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, actions or remedies under sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552, and 553 of the Bankruptcy Code.

7. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time.

8. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

9. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and general orders and chambers procedures of the Bankruptcy Court, each as applicable to the Chapter 11 Cases and as amended from time to time.

10. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as that term is defined in Bankruptcy Rule 9006(a)).

11. “*Cash*” means legal tender of the United States of America or the equivalent thereof.

12. “*Causes of Action*” means all claims, actions, causes of action, choses in action, Avoidance Actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, obligations, demands, liabilities, variances, trespasses, damages, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims and crossclaims that are or may be pending on the Effective Date or instituted after the Effective Date against any Entity, based in law or equity, whether direct, indirect, derivative or otherwise and whether asserted or unasserted as of the Effective Date.

13. “*Champaign Property*” means any real and personal property of the Debtors located at 15 East Main Street, Champaign, IL, 61820 as of the Effective Date.

14. “*Chapter 11 Cases*” means the chapter 11 cases commenced when the Debtors each Filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on the Petition Date, which are jointly administered in the Bankruptcy Court under Case No. 19-11901 (KBO).

15. “*Claim*” means a “claim” (as that term is defined in section 101(5) of the Bankruptcy Code) against a Debtor.

16. “*Claims Objection Bar Date*” means the bar date for objecting to proofs of claim, which shall be ninety (90) days after the Effective Date; *provided, however*, that the Reorganized Debtors may seek by motion additional extensions of this date from the Bankruptcy Court.

17. “*Claims Register*” means the official claims registers in the Chapter 11 Cases maintained by the Noticing Agent on behalf of the clerk of the Bankruptcy Court.

18. “*Class*” means a category of Claims or Equity Interests as set forth in Article III hereof pursuant to section 1122(a) of the Bankruptcy Code.

19. “*Confirmation Date*” means the date on which the Confirmation Order is entered by the Bankruptcy Court.

20. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

21. “*CWA/ITU Claim*” means any Claim scheduled for or asserted by the CWA/ITU Negotiated Pension Plan.

22. “*D&O Insurance Policies*” means all primary and excess insurance policies that provide coverage for liability related to the actions or omissions of the Debtors’ directors and officers, and, if applicable, “tail” or “runoff” coverage for such policies.

23. “*Debtors*” or “*Debtors in Possession*” means, collectively, the above-captioned debtors and debtors in possession specifically identified on the cover page to this Plan and as defined in footnote 1 above.

24. “*Debtor Boards of Directors*” means those individuals appointed in accordance with the relevant Debtor Organizational Documents to serve as members of the respective boards of directors for each of the Debtors.

25. “*Debtor Organizational Documents*” means the applicable bylaws, charter documents, certificates of incorporation, and related documents regarding the corporate existence and governance of the Debtors.

26. “*Debtor Privilege*” means any attorney-client privilege, work product protection, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) held by the Debtors.

27. “*Disclosure Statement Order*” means the order approving the Disclosure Statement, which was entered by the Bankruptcy Court on August ●, 2020 [D.I. ●].

28. “*Disclosure Statement*” means the disclosure statement for this Plan approved by the Disclosure Statement Order.



29. “*Disputed*” means, with respect to any Claim, any Claim: (a) listed on the Schedules as “unliquidated, disputed or contingent” (as such terms are used in the Schedules), unless a proof of claim has been timely Filed; (b) as to which the Debtors or the Reorganized Debtors have interposed a timely objection or request for estimation in accordance with the Bankruptcy Code, the Bankruptcy Rules or this Plan; or (c) as otherwise disputed by the Debtors or the Reorganized Debtors in accordance with applicable law, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

30. “*Distributions*” means the distributions of Cash or other property to be made in accordance with this Plan.

31. “*Distribution Date*” means the Initial Distribution Date and any Subsequent Distribution Date.

32. “*Effective Date*” means the date established pursuant to Article IX.B of this Plan.

33. “*Entity*” has the meaning set forth in section 101(15) of the Bankruptcy Code.

34. “*Equity Interest*” means any equity interest in a Debtor that existed as of the Petition Date, including, without limitation: (a) any common equity interest including, without limitation, all issued, unissued, authorized or outstanding shares of common stock, together with any warrants, options or legal, contractual or equitable rights to purchase or acquire such interests at any time; (b) any preferred equity interest including, without limitation, all issued, unissued, authorized or outstanding shares of preferred stock; and, as to any of the foregoing; and (c) any warrants, options or legal, contractual or equitable rights to purchase or acquire such interests.

35. “*Estate*” means the estate of each Debtor created on the Petition Date pursuant to section 541 of the Bankruptcy Code.

36. “*Exculpated Parties*” means, collectively, the Debtors, the Debtors’ officers and directors, the Plan Administrator, and the Debtors’ professionals retained under sections 327 or 328 of the Bankruptcy Code (each in their capacities as such) that served in such capacities at any time between the Petition Date and the Effective Date.

37. “*File*”, “*Filed*” or “*Filing*” means, with respect to any pleading, entered on the court or claims docket, as applicable, of the Chapter 11 Cases and properly served in accordance with the Bankruptcy Rules.

38. “*Final Certification*” means a Filing by the Reorganized Debtor (a) certifying that all required Distributions have been made, and (b) certifying that the Reorganized Debtors’ duties have all been completed.

39. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be

Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or has otherwise been dismissed with prejudice.

40. “*GCIU Claim*” means any Claim scheduled for or asserted by the GCIU-Employer Retirement Fund.

41. “*General Bar Date Order*” means the *Order Pursuant to Bankruptcy Rule 3003(C)(3) and Local Rule 2002-1(E) Establishing Bar Dates and Related Procedures for Filing Proofs of Claim (Including for Administrative Expense Claims Arising Under Section 503(B)(9) of the Bankruptcy Code) and Approving the Form and Manner of Notice Thereof*, entered by the Bankruptcy Court on October 25, 2019 [D.I. 163].

42. “*General Bar Date*” means December 3, 2019 at 5:00 p.m. (Prevailing Eastern Time), as established in the General Bar Date Order.

43. “*General Unsecured Claims*” means Claims that are not Secured Claims, Administrative Claims, Priority Claims, Pension Claims, Intercompany Claims, or Equity Interests.

44. “*Governmental Unit Bar Date*” means February 26, 2020 at 5:00 p.m. (Prevailing Eastern Time), as established in the General Bar Date Order for each and every Governmental Unit.

45. “*Governmental Unit*” has the meaning set forth in section 101(27) of the Bankruptcy Code.

46. “*Holder(s)*” means holder(s) of Claims or Equity Interests whether or not such Claims were Allowed Claims on the Effective Date.

47. “*Impaired*” means, with respect to a Claim, Equity Interest, or Class of Claims or Equity Interests, “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

48. “*Initial Distribution Date*” means the date selected by the Plan Administrator on which the Reorganized Debtors will make their first Distribution.

49. “*Insider*” means an “insider” (as that term is defined in section 101(31) of the Bankruptcy Code) of a Debtor.

50. “*Intercompany Claims*” means Claims held by a Debtor against another Debtor.

51. “*Noticing Agent*” means Stretto, or any successor, in its capacity as claims and noticing agent pursuant to an order entered by the Bankruptcy Court on September 4, 2019 [D.I. 31].

52. “*Paxton Property*” means any real and personal property of the Debtors located at 208 North Market Street, Paxton, IL, 60957 as of the Effective Date.

53. “*PBGC*” means the Pension Benefit Guaranty Corporation.
54. “*PBGC Claim*” means any Claim scheduled for or asserted by the PBGC.
55. “*Pension Claims*” means collectively the CWA/ITU Claim, the GCIU Claim and the PBGC Claim.
56. “*Petition Date*” means August 30, 2019, the date on which the Debtors Filed the Chapter 11 Cases.
57. “*Plan*” means this plan of liquidation under chapter 11 of the Bankruptcy Code, either in its present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules or herewith, as the case may be, and the Plan Supplement, which is incorporated herein by reference.
58. “*Plan Administrator*” means John L. Reed or his successor who serves to administer this Plan according to the terms of his engagement set forth in the Plan Supplement.
59. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules and exhibits to this Plan, as the same may be altered, amended, modified, or supplemented from time to time.
60. “*Priority Claims*” means Claims or portions thereof entitled to priority in payment pursuant to sections 507(a)(4), 507(a)(5), 507(a)(7) or 507(a)(9) of the Bankruptcy Code, in any case to the greatest extent permitted.
61. “*Pro Rata*” means the ratio of the amount of an Allowed Claim in a particular Class to the aggregate amount of all Allowed Claims in such Class.
62. “*Professional*” means any Entity employed pursuant to a Final Order in accordance with sections 327, 328, or 1103 of the Bankruptcy Code, and to be compensated for services rendered and expenses incurred pursuant to sections 327, 328, 329, 330, or 331 of the Bankruptcy Code.
63. “*Professional Compensation Claim*” means a Claim of a Professional for professional services rendered or costs incurred on or after the Petition Date through and including the Effective Date.
64. “*Professional Claims Bar Date*” means 5:00 p.m. (Prevailing Eastern Time) on the date that is the first Business Day after the date that is thirty (30) days after the Effective Date unless extended by agreement of the Reorganized Debtors.
65. “*Purchaser*” means Champaign Multimedia Group, LLC.
66. “*Ratable Proportion*” means, with reference to any Distribution on account of any Allowed Claim in any Class, the ratio (expressed as a percentage) that the amount of the Allowed Claim bears to the aggregate amount of all Allowed and Disputed Claims in that Class.

67. “*Real Estate Purchase Agreements*” means the Real Estate Purchase and Sale Agreements for each of the Champaign Property and the Paxton Property sold pursuant to the Real Estate Sale Order.

68. “*Real Estate Sale Order*” means that certain Order (A) *Approving Auction Procedures with Respect to the Sale of Certain Real Property*; (B) *Approving Form of Asset Purchase Agreement*; (C) *Authorizing the Sale of Such Real Property through Public Auction*; and (D) *Granting Related Relief* entered by the Bankruptcy Court on June 10, 2020 [D.I. 350].

69. “*Record Date*” means the record date for determining the entitlement of Holders to receive Distributions under this Plan on account of Allowed Claims. The Record Date shall be, with respect to any Distribution Date, the date that is one (1) month prior to such Distribution Date.

70. “*Rejection Claims Bar Date*” means the bar date for filing a proof of claim on account of executory contracts or unexpired leases that are deemed rejected pursuant to this Plan, which bar date shall be thirty (30) days after the Effective Date.

71. “*Reorganized Debtor Administrative and Priority Claims Reserve*” means the reserve to be established and maintained by the Reorganized Debtors and funded with such Cash, as determined and provided by the Debtors before the Effective Date, for the payment of accrued but unpaid U.S. Trustee Fees, Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims that are Allowed after the Effective Date to the extent that such Claims have not been paid in full on or before the Effective Date.

72. “*Reorganized Debtor Assets*” means all assets and properties of every kind, nature, character and description (whether real, personal, or mixed, whether tangible and intangible, including contract rights, wherever situated and by whomever possessed), operated, owned or leased by the Debtors as of the Effective Date and that constitute property of the Estates within the purview of section 541 of the Bankruptcy Code including, without limitation: (a) all Cash on hand; (b) all proceeds of the Sale; (c) all rights under (i) the Asset Purchase Agreement and payments owing to the Debtors thereunder, (ii) the Sale Order, and (iii) any other order of the Bankruptcy Court; (d) all Retained Causes of Action; (e) all tax refunds; (f) all assets not abandoned or sold pursuant to the Asset Purchase Agreement, the Real Estate Sale Agreement or otherwise; (g) all Debtor Privileges; (h) all rights of the Debtors or Reorganized Debtors under the Real Estate Purchase Agreements and the proceeds of the sales of the Champaign Property and the Paxton Property; (i) all insurance proceeds; and (j) all of the Debtors’ books and records.

73. “*Reorganized Debtor Boards*” means, for each Debtor, the Debtor Boards of Directors, on and after the Effective Date.

74. “*Reorganized Debtor Disputed Claims Reserve*” means the reserve fund created pursuant to Article VI.B.1 of this Plan.

75. “*Reorganized Debtor Expenses*” means the overhead and other operating expenses of the Reorganized Debtors, including, but not limited to, the fees and expenses of the Reorganized Debtors and the reasonable fees and expenses of professionals retained by the Reorganized Debtors.

76. “*Reorganized Debtor General Unsecured Claim Reserve*” means the reserve established on the Effective Date to hold Cash in the amount of two-hundred fifty thousand dollars (\$250,000), which shall be the pool of funds set aside and available only for Distributions to Holders of Allowed General Unsecured Claims.

77. “*Reorganized Debtor Fund*” means the fund established on the Effective Date to hold Cash from the Reorganized Debtor Assets net of all Cash established by (i) the Reorganized Debtor Administrative and Priority Claims Reserve, and (ii) the Reorganized Debtor General Unsecured Claim Reserve, which shall be utilized as the source of payment of Reorganized Debtor Expenses and Distributions on account of Allowed Pension Claims in accordance with the terms of this Plan.

78. “*Reorganized Debtors*” means the Debtors, on and after the Effective Date.

79. “*Representatives*” means, with regard to any Entity, its officers, managers, directors, current and former employees, advisors, attorneys, professionals, accountants, investment bankers, financial advisors, consultants and agents, each in their capacities as such. For purposes of this definition, the term “manager” shall mean the manager of a board of managers of a limited liability company.

80. “*Retained Causes of Action*” mean all Causes of Action of the Debtors, the Debtors-in-Possession, the Reorganized Debtors, other than those Causes of Action that are released, compromised or settled pursuant to Article X hereof, including but not limited to avoidance actions arising under chapter 5 of the Bankruptcy Code, recovery of deposits and/or cash collateral, and actions for breach of contract.

81. “*Sale*” means the sale of substantially all of the Debtors’ operating assets to the Purchaser pursuant to the Asset Purchase Agreement and the Sale Order.

82. “*Sale Closing Date*” means November 10, 2019.

83. “*Sale Order*” means the *Order (A) Authorizing and Approving (A) the Sale of Substantially All of The News-Gazette, Inc. and D.W.S., Inc. to Champaign Multimedia Group, LLC Free and Clear of All Liens, Claims, Encumbrances, and Interests; and (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [D.I. 129], which approved the Sale.

84. “*Schedules*” means the schedules of assets and liabilities, schedules of executory contracts and statements of financial affairs Filed on September 27, 2019, as may be amended.

85. “*Secured Claim*” means a Claim that is secured (i) by a lien that is valid, perfected and enforceable under the Bankruptcy Code or applicable non-bankruptcy law or by reason of a Final Order; or (ii) as a result of rights of setoff under section 553 of the Bankruptcy Code, but in any event only to the extent of the value, determined in accordance with section 506(a) of the Bankruptcy Code, of the Holder’s interest in the Estate’s interest in such property or to the extent of the amount subject to such setoff, as the case may be.

86. “*Subsequent Distribution Date*” means the date(s) selected by the Plan Administrator following the Initial Distribution Date on which the Reorganized Debtors will make one or more Distribution(s).

87. “*U.S. Trustee*” means the Office of the United States Trustee for the District of Delaware.

88. “*Utility Deposits*” means deposits with utilities made by the Debtors after the Petition Date pursuant to section 366(b) of the Bankruptcy Code.

89. “*Unimpaired*” means, with respect to a Claim, Equity Interest, or Class of Claims or Equity Interests, not “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

## B. Rules of Interpretation

1. For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neutral gender shall include the masculine, feminine and the neutral gender; (b) any reference herein to a contract, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (e) the words “herein,” “hereof” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings of Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed hereby.

3. All references herein to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

4. To the extent of any inconsistency between this Plan and the Disclosure Statement Filed in connection herewith, the Plan Supplement or any component thereof, or the Debtor Organizational Documents, this Plan shall control.

## C. Exhibits

All exhibits to this Plan will be included with the Plan Supplement, which will be Filed in substantially final form with the Bankruptcy Court no later than ten (10) calendar days prior to the deadline to vote to accept or reject this Plan. The Plan Supplement shall be available for inspection

(i) at the Office of the Clerk of the Bankruptcy Court; (ii) at <http://www.pacer.gov>, or (iii) from the Noticing Agent website at <https://case.stretto.com/news-gazette>; or (iv) once Filed, from the Debtors by a written request sent to the following addressee:

McDonald Hopkins LLC  
Attn: Nicholas M. Miller  
300 N. LaSalle Street, Suite 1400  
Chicago, IL 60654  
Email: [nmiller@mcdonaldhopkins.com](mailto:nmiller@mcdonaldhopkins.com)

## ARTICLE II.

### ADMINISTRATIVE AND PRIORITY CLAIMS

#### A. Administrative Claims

Subject to the provisions of sections 328, 330(a), and 331 of the Bankruptcy Code, the Debtors or the Reorganized Debtors, as applicable, shall pay each Holder of an Allowed Administrative Claim the full unpaid amount of such Allowed Administrative Claim in Cash: (i) on the Effective Date or as soon as practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as practicable thereafter); (ii) if such Claim is Allowed after the Effective Date, on the date such Claim is Allowed or as soon as practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due); (iii) at such time and upon such terms as may be agreed upon by such Holder and the Debtors or the Reorganized Debtors, as applicable; or (iv) at such time and upon such terms as set forth in an order of the Bankruptcy Court; *provided, however*, that the U.S. Trustee shall not be required to File a request for payment of fees and charges assessed against the Estates under 28 U.S.C. §1930 before the Administrative Bar Date.

#### B. Professional Compensation Claims

1. Any Professional Compensation Claim not Filed by the Professional Compensation Claims Bar Date shall be deemed disallowed under this Plan and shall be forever barred against the Debtors, the Estates, the Reorganized Debtors, or any of the Reorganized Debtor Assets or property, and the Holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim. Subject to the provisions of sections 328, 330(a), and 331 of the Bankruptcy Code, the Reorganized Debtors shall pay each Holder of an Allowed Professional Compensation Claim the full unpaid amount of such Allowed Professional Compensation Claim in Cash no later than five (5) Business Days after the date that such Claim is Allowed by order entered by the Bankruptcy Court, notwithstanding any pending appeal or request for stay or reconsideration of such order.

2. From and after the Effective Date, (a) the Reorganized Debtors shall, in the ordinary course of business and without any further notice or application to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to the implementation of this Plan incurred on or after the Effective Date by the Reorganized Debtors. Upon the Effective Date, any requirement that Professionals comply with

sections 327-331, 363, and 1103 of the Bankruptcy Code and Local Bankruptcy Rules, or any order of the Bankruptcy Court in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

C. Priority Claims

Except to the extent that a Holder of an Allowed Priority Claim against a Debtor agrees to a different treatment, the Debtors or the Reorganized Debtors, as applicable, shall pay each Holder of an Allowed Priority Claim the full unpaid amount of such Allowed Priority Claim in Cash, on the latest of (i) the Effective Date, (ii) the date such Allowed Priority Claim becomes Allowed, or (iii) the date such Allowed Priority Claim is payable under applicable non-bankruptcy law.

**ARTICLE III.**

**CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

A. Summary

1. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims and Priority Claims, as described in Article II. Accordingly, except for Administrative Claims and Priority Claims, all Claims against and Equity Interests in a particular Debtor are placed in Classes as set forth below.

2. The following table classifies Claims against and Equity Interests in each Debtor for all purposes, including voting, confirmation and Distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. This Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Rights</u>
1	Secured Claims	Unimpaired	Deemed to Accept
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Pension Claims	Impaired	Entitled to Vote
4	Intercompany Claims	Impaired	Deemed to Reject
5	Equity Interests	Impaired	Deemed to Reject

B. Classification and Treatment of Claims and Equity Interests

1. Secured Claims (Class 1)



(a) *Classification:* Class 1 consists of Secured Claims.

(b) *Treatment:* Unless the Holder of such Secured Claim and the Reorganized Debtor agree to a different treatment, thirty (30) days after the later of (a) the Effective Date and (b) the date on which the Allowed Secured Claim becomes Allowed, in full satisfaction of its Allowed Claim, each Holder of an Allowed Secured Claim shall receive, at the option of the Reorganized Debtors: (a) the net proceeds of the sale of the property securing such Claim, up to the Allowed amount of such Claim; (b) the return of property securing such Claim; or (c) Cash equal to the value of the property securing such Claim, up to the value of the Allowed Secured Claim.

(c) *Voting:* Class 1 is Unimpaired, and each Holder of a Secured Claim is conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code, and therefore is not entitled to vote on this Plan.

2. General Unsecured Claims (Class 2)

(a) *Classification:* Class 2 consists of General Unsecured Claims.

(b) *Treatment:* On or as soon as practicable after the Initial Distribution Date and/or any Subsequent Distribution Date, the Reorganized Debtors shall pay each Holder of an Allowed General Unsecured Claim (subject to reserves for possible later Distributions on account of Disputed General Unsecured Claims), in full and final satisfaction of such Allowed General Unsecured Claim, its Pro Rata share of the Reorganized Debtor General Unsecured Claims Reserve. For the avoidance of doubt, the Reorganized Debtor General Unsecured Claims Reserve shall be the only source of funding under this Plan that is available for Distributions to Holders of Allowed General Unsecured Claims.

(c) *Voting:* Class 2 is Impaired, and Holders of General Unsecured Claims are entitled to vote to accept or reject this Plan.

3. Pension Claims (Class 3)

(a) *Classification:* Class 3 consists of Pension Claims.

(b) *Treatment:* On or as soon as practicable after the Initial Distribution Date and/or any Subsequent Distribution Date, the Reorganized Debtors shall pay to such Holder of an Allowed Pension Claim (subject to reserves for possible later Distributions on account of Disputed Pension Claims), in full and final satisfaction of such Allowed Pension Claim, its Pro Rata share of the Reorganized Debtor Fund.

(c) *Voting:* Class 3 is Impaired, and Holders of Pension Claims are entitled to vote to accept or reject this Plan.

4. Intercompany Claims (Class 4)

(a) *Classification:* Class 4 consists of Intercompany Claims.

(b) *Treatment:* Intercompany Claims shall be deemed cancelled and disallowed on the Effective Date, and no Distributions shall be made on account of such Intercompany Claims.

(c) *Voting:* Holders of Class 4 Intercompany Claims are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code, and therefore are not entitled to vote.

5. Equity Interests (Class 5)

(a) *Classification:* Class 5 consists of Equity Interests.

(b) *Treatment:* On the Effective Date, all Equity Interests shall be deemed cancelled, null, and void.

(c) *Voting:* Holders of Class 5 Equity Interests are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code, and therefore are not entitled to vote.

C. Elimination of Vacant Classes

Any Class of Claims or Equity Interests that does not contain, as of the Confirmation Date, a Holder of an Allowed Claim or Equity Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018(a), shall be deemed deleted from this Plan for all purposes, including for purposes of determining acceptance of this Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

D. Allocation of Distributions Between Principal and Interest

For Distributions in respect of Allowed General Unsecured Claims or Allowed Pension Claims, to the extent that any such Claim entitled to a Distribution under this Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

E. Special Provision Governing Unimpaired Claims

Except as otherwise provided in this Plan, nothing under this Plan shall affect the Reorganized Debtors' right in respect of any Unimpaired Claim, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claim. Nothing in this Plan is intended to, or shall be interpreted to, approve any creditor's effectuation of a postpetition setoff, and creditors may not effectuate any postpetition setoff without the consent of the Reorganized Debtors or the Plan Administrator, unless prior Bankruptcy Court approval has been obtained.

F. Non-Consensual Confirmation

The Debtors reserve the right to seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class votes to reject this Plan, the Debtors further reserve the right to modify this Plan in accordance with Article XII.B.

**ARTICLE IV.**

**ACCEPTANCE OR REJECTION OF THIS PLAN**

A. Impaired Classes of Claims Entitled to Vote

Only the Holders of Class 2 General Unsecured Claims and Class 3 Pension Claims are entitled to vote to accept or reject this Plan.

B. Acceptance by an Impaired Class

In accordance with section 1126(c) of the Bankruptcy Code, an impaired Class of Claims shall have accepted this Plan if this Plan is accepted by the Holders of at least two-thirds in amount and fifty percent in number that have timely and properly voted to accept or reject this Plan. Because Class 2 and Class 3 are Impaired, the votes of such Holders shall be solicited.

C. Presumed Acceptances by Unimpaired Classes

Allowed Class 1 Secured Claims are not Impaired by this Plan. Under section 1126(f) of the Bankruptcy Code, Holders of such Claims are conclusively presumed to have accepted this Plan, and the votes of the Holders of such Claims shall not be solicited.

D. Classes Deemed to Reject this Plan

Holders of Class 4 Intercompany Claims and Class 5 Equity Interests are not entitled to receive any distribution under this Plan. Pursuant to section 1126(g) of the Bankruptcy Code, Holders of Class 4 Intercompany Claims and Class 5 Equity Interests are conclusively deemed to have rejected this Plan and the votes of these Holders, therefore, shall not be solicited.

E. Claims Subject to Section 502(d) of the Bankruptcy Code

Pursuant to section 502(d) of the Bankruptcy Code, a Claim shall be disallowed if it is held by a Holder from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, unless such Holder has paid the amount, or turned over any such property, for which such Holder is liable under section 522(i), 542, 543, 550, or 553 of the Bankruptcy Code.

## ARTICLE V.

### MEANS FOR IMPLEMENTATION OF THIS PLAN

#### A. The Reorganized Debtors

1. From and after the Effective Date, the Reorganized Debtors shall continue in existence for purposes of (a) winding down the Debtors' businesses and affairs as expeditiously and efficaciously as possible, (b) resolving all Claims, (c) making Distributions on account of all Allowed Claims in accordance with this Plan, (d) administering the Reorganized Debtor Assets, (e) filing appropriate tax returns for the Debtors and Reorganized Debtors, as necessary, (f) succeeding to the Debtors' rights, responsibilities, and obligations with respect to employment agreements and employee-related benefits plans, to the extent not terminated by the Debtors or rejected by this Plan or otherwise, or assumed by the Purchaser prior to the Effective Date, and including the Debtors' and the Reorganized Debtors' rights to amend, modify, or terminate agreements and benefits at any time under all applicable law, (g) dissolving the Debtors and the Reorganized Debtors in accordance with this Plan, and (h) administering this Plan (through the Plan Administrator) in an efficacious manner, with no objective to continue or engage in the conduct of a trade or business.

2. In addition, from and after the Effective Date through and including the date of Filing of the Final Certification, the Reorganized Debtors shall continue in existence for purposes of (a) filing the final monthly report (for the month in which the Effective Date occurs) and any subsequent quarterly reports required under the U.S. Trustee guidelines, and paying all U.S. Trustee Fees from the Effective Date through the date of Filing of the Final Certification, (b) maintaining, transferring, or terminating any and/or all insurance policies as deemed necessary by the Reorganized Debtors in accordance with the terms of this Plan, and (c) maintaining the Reorganized Debtors' books and records.

3. On the Effective Date, and in accordance with and pursuant to the terms of this Plan, all of the Debtors' and the Estates' rights, title, and interests in the Reorganized Debtor Assets shall be automatically deemed vested in the Reorganized Debtors, notwithstanding any prohibition on assignment under non-bankruptcy law. The Reorganized Debtors shall hold the Reorganized Debtor Assets for the benefit of the Holders of Allowed Claims to be liquidated and distributed in accordance with the provisions of this Plan.

4. This Plan shall be considered a motion pursuant to sections 105, 363, 365, and 1141 of the Bankruptcy Code for such relief, and the Confirmation Order shall be considered an order granting such relief. As of the Effective Date, all Reorganized Debtor Assets vested in the Reorganized Debtors shall be free and clear of all liens, claims, encumbrances, and interests, except as otherwise specifically provided in this Plan or in the Confirmation Order. Upon the transfer by the Debtors of the Reorganized Debtor Assets to the Reorganized Debtors, the Estates will have no reversionary or further interest in or with respect to any Reorganized Debtor Assets or the Reorganized Debtor. Any Distributions to be made under this Plan from the Reorganized Debtor Assets shall be made by the Reorganized Debtors. The Reorganized Debtors shall be responsible for filing all applicable tax returns and paying all taxes (including any withholding

taxes) that it may be required to file and/or pay, arising from or relating to the Reorganized Debtors, from the Reorganized Debtor Assets.

5. In connection with the Reorganized Debtor Assets, all Debtor Privileges shall likewise automatically vest in the Reorganized Debtors and their Representatives, including but not limited to any member of the Reorganized Debtor Boards and any Representative thereof, and the same shall not operate as a waiver or other impairment of other privileges possessed or retained by the Debtors.

B. Appointment of the Plan Administrator

Prior to the Confirmation Date, the Plan Administrator and the terms of service shall be identified by the Debtors in the Plan Supplement. The Person selected to be the Plan Administrator shall be approved by the Bankruptcy Court at the Confirmation Hearing. If the Person so selected is approved by the Bankruptcy Court, such approval shall be incorporated into the Confirmation Order. The Plan Administrator shall serve in such capacity until his or her resignation or discharge by the Reorganized Debtor Boards. In the event that the Plan Administrator resigns, dies or becomes incapacitated, the Reorganized Debtor Boards shall select a replacement Plan Administrator, and the Reorganized Debtors shall File a notice of such change of Plan Administrator with the Bankruptcy Court. The Plan Administrator shall be indemnified by and receive reimbursement from the Assets against and from any and all loss, liability, expense, or damage which he may incur or sustain, in good faith and without gross negligence, in the exercise and performance of his powers and duties under this Plan. The Plan Administrator may use the Reorganized Debtors Assets to purchase appropriate errors and omissions insurance and/or additional tail coverage under the D&O Insurance Policies.

C. Powers and Duties of the Reorganized Debtors

From and after the Effective Date, the Reorganized Debtor Boards, the Plan Administrator, and any other duly appointed officers of the Reorganized Debtors shall have the fiduciary duties imposed under applicable law, subject to the provisions of this Plan and all Debtor Organizational Documents. The powers of the Reorganized Debtors, certain of which may be carried out by the Plan Administrator in the reasonable business judgment of the Reorganized Debtor Boards, shall include any and all powers previously held by the Debtors or the Estates, as limited by the terms of this Plan and including but not limited to authority to implement this Plan and to administer and distribute the Reorganized Debtor Assets and wind down the business and affairs of the Debtors and the Reorganized Debtors, including (a) liquidating, receiving, holding, investing, supervising, and protecting the Reorganized Debtor Assets, (b) taking all steps to execute all instruments and documents necessary to effectuate the Distributions to be made under this Plan from the Reorganized Debtor Assets, (c) resolving all Claims, (d) selecting dates for the Initial Distribution Date and each Subsequent Distribution Date and making Distributions from the Reorganized Debtor Assets as contemplated under this Plan, (e) establishing and maintaining bank accounts (only if necessary) in the name of the Reorganized Debtors, including the Administrative and Priority Claims Reserve and General Unsecured Claim Reserve, (f) employing, retaining, terminating, or replacing Professionals to represent them with respect to their responsibilities or otherwise effectuating this Plan to the extent necessary, (g) paying all reasonable costs, fees, expenses, debts, charges, employee wages, and liabilities of the Reorganized Debtors,

(h) maintaining, transferring, or terminating the Reorganized Debtors' insurance policies, as deemed necessary by the Reorganized Debtors, in accordance with the terms of this Plan, (i) administering and paying taxes of the Reorganized Debtors, including filing tax returns, (j) representing the interests of the Reorganized Debtors or the Estates before any taxing authority in all matters, including any action, suit, proceeding or audit, and (k) exercising such other powers as may be vested in it pursuant to an order of the Bankruptcy Court, the Confirmation Order or this Plan, or as it reasonably deems to be necessary and proper to carry out the provisions of this Plan. The powers, authority, responsibilities, and duties of the Reorganized Debtors will be governed by this Plan and the Confirmation Order.

D. Funding of the Reorganized Debtors

1. On the Effective Date, the Debtors shall fund, and the Reorganized Debtors shall establish and thereafter maintain, the Reorganized Debtor Administrative and Priority Claims Reserve, which funds shall vest in the Reorganized Debtors free and clear of all Liens, Claims, encumbrances, charges, and other interests, except as otherwise specifically provided in this Plan and Confirmation Order. Funds in the Reorganized Debtor Administrative and Priority Claims Reserve shall be used by the Reorganized Debtors only for the payment of U.S. Trustee Fees and Allowed Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims, to the extent that such Allowed Claims have not been paid in full on or prior to the Effective Date. To the extent not otherwise provided herein or ordered by the Bankruptcy Court, the Reorganized Debtors shall estimate appropriate reserves of Cash to be set aside in order to pay or reserve for Disputed Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims. Any amounts set aside to pay or reserve for Disputed Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims shall include the amounts needed to fund the ongoing costs and expenses of such reserve, including, without limitation, taxes in respect of Disputed Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims, if any. Any amounts remaining in the Reorganized Debtor Administrative and Priority Claims Reserve after payment of all Allowed Secured Claims, Administrative Claims, Priority Claims, and Professional Compensation Claims and U.S. Trustee Fees shall become part of the Reorganized Debtor Fund.

2. On the Effective Date, the Debtors shall fund, and the Reorganized Debtors shall establish and thereafter maintain, the Reorganized Debtor General Unsecured Claims Reserve, which funds shall vest in the Reorganized Debtors free and clear of all Liens, Claims, encumbrances, charges, and other interests, except as otherwise specifically provided in this Plan and Confirmation Order. Funds in the Reorganized Debtor Disputed Claims Reserve shall be used as provided in Article VI of this Plan. Funds in the Reorganized General Unsecured Claims Reserve shall be used by the Reorganized Debtors only for the payment of Allowed Class 2 General Unsecured Claims after the Effective Date.

3. On the Effective Date, the Debtors shall fund, and the Reorganized Debtors shall establish and thereafter maintain, the Reorganized Debtor Fund, which funds shall vest in the Reorganized Debtors free and clear of all Liens, Claims, encumbrances, charges, and other interests, except as otherwise specifically provided in this Plan and Confirmation Order. Funds in the Reorganized Debtor Fund shall be used as provided in Article VI of this Plan. Funds in the Reorganized Debtor Fund shall be used by the Reorganized Debtors as the source of payment of

Reorganized Debtor Expenses and Distributions on account of Allowed Class 3 Pension Claims in accordance with the terms of this Plan after the Effective Date.

E. Operations of the Debtors Between the Confirmation Date and the Effective Date

The Debtors shall continue to operate as Debtors in Possession during the period from the Confirmation Date through and until the Effective Date.

F. Reorganized Debtor Expenses

After the Effective Date, all Reorganized Debtor Expenses, including those for attorneys, accountants and other persons employed or retained by the Reorganized Debtor, shall be paid in the ordinary course of business from the Reorganized Debtor Fund. In addition, the Plan Administrator shall be entitled to be compensated from the Reorganized Debtor Fund for his time at his customary hourly rate and upon terms as set forth in the Plan Supplement. The Plan Administrator shall also be reimbursed for all reasonable out-of-pocket expenses incurred in the performance of such duties hereunder.

G. Establishment of the Administrative Bar Date

1. The Administrative Bar Date shall be thirty (30) days after the Effective Date.

2. Except as otherwise provided in this Plan or the Confirmation Order, on or before 5:00 p.m. (Prevailing Eastern Time) on the Administrative Bar Date, as applicable, each Holder of an Administrative Claim (to the extent such Holder has not previously been paid) must File with the Bankruptcy Court a request for payment of such Administrative Claim.

3. Any Holder of an Administrative Claim that is required to File a request for payment of such Administrative Claim that does not File such request with the Bankruptcy Court by the Administrative Bar Date, shall be forever barred, estopped, and enjoined from asserting such Administrative Claim against the Debtors, the Reorganized Debtors or the Estates, and such Administrative Claim shall be deemed released and discharged as of the Effective Date.

H. Term of Injunctions or Stays

Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect to the extent and for the duration provided in section 362(c) of the Bankruptcy Code.

I. Sale Order; Asset Purchase Agreement

Notwithstanding anything in this Plan or the Confirmation Order to the contrary, nothing in this Plan or the Confirmation Order shall, or shall be deemed to, amend, modify, or waive any term or condition of the Sale Order, the Asset Purchase Agreement, the Real Estate Sale Order, the Real Estate Purchase Agreements, or otherwise limit, alter, or impair any of the rights or remedies of the Purchaser or Purchasers under any of the foregoing.

J. Utility Deposits

All utilities holding a Utility Deposit shall immediately after the Effective Date return or refund such Utility Deposit to the Reorganized Debtors. At the sole option of the Plan Administrator, the Reorganized Debtors may apply any Utility Deposit that has not been refunded to the Reorganized Debtors in satisfaction of any payments due or to become due from the Reorganized Debtors to a utility holding such a Utility Deposit.

K. Wind Down

1. On the Effective Date, the members of the Debtor Boards of Directors shall be deemed to have become members of the Reorganized Debtor Boards, and all persons who are then officers and employees of the Debtors shall be deemed to have become officers and/or employees of the Reorganized Debtors. From and after the Effective Date, the Reorganized Debtor Boards and the officers of the Reorganized Debtors shall have such duties imposed on them by applicable Delaware law and the Debtor Organizational Documents; *provided, however*, notwithstanding anything to the contrary in the Debtor Organizational Documents, the Reorganized Debtors Boards may be reduced to only one (1) director serving in such capacity.

2. On and after the Effective Date, the Reorganized Debtors shall be authorized to implement this Plan and any applicable orders of the Bankruptcy Court, and shall take such actions as the Reorganized Debtors may determine to be necessary or desirable to carry out the purposes of this Plan.

3. On or after the Filing of the Final Certification, the affairs of the Reorganized Debtors may be wound up and the Reorganized Debtors may be dissolved at any time without the need for any further action or approval or filings with the Bankruptcy Court.

L. Corporate Action; Effectuating Documents and Transactions

1. Upon the Effective Date, by virtue of entry of the Confirmation Order, all actions contemplated by this Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Debtor Boards of Directors, Holders of Equity Interests in the Debtors, the Debtors, or any other Entity. All matters provided for in this Plan involving the corporate actions of the Debtors, and any corporate action thereafter required by the Debtors in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtors or the Estates.

2. The Reorganized Debtors are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of this Plan, without the need for any approvals, authorization, or consents except for those expressly required pursuant to this Plan. The Reorganized Debtors shall be authorized to execute, deliver, file, or record such contracts, instruments, and other agreements or documents and take such other actions as they may deem necessary or appropriate in their reasonable discretion to implement the provisions of this Article V.



3. After the Effective Date, any provision of the Debtor Organizational Documents granting indemnification of the Debtors' officers, directors, and employees at the election of the Debtors shall be amended to provide such indemnification on a mandatory basis by the Reorganized Debtors.

4. Notwithstanding any provision to the contrary in this Plan, including in this Article V, the Debtors and the Reorganized Debtors shall not issue non-voting equity securities.

5. The Plan Administrator shall have authority, including but not limited to signatory authority, as a representative of the Debtors and Reorganized Debtors, as applicable, with respect to any and all bank accounts of the Debtors, including but not limited to deposit or brokerage accounts held in the name of the Debtors or any employee benefits program administered in part or in whole thereby, and furthermore, (i) exercise of such authority shall be authorized solely to the extent necessary and appropriate to effectuate this Plan, and (ii) upon entry of the Confirmation Order, all applicable banking and brokerage institutions shall be directed to provide such authority to the Plan Administrator without further notice, hearing, or authorization. For the avoidance of doubt, the Reorganized Debtors shall be authorized by this Plan to continue to use the Debtors' existing bank accounts.

6. The authorizations and approvals contemplated by this Article V shall be effective notwithstanding any requirements under applicable non-bankruptcy law.

**M. Final Certification and Case Closing**

1. As soon as practicable after the Effective Date, the Reorganized Debtors are authorized to and shall submit an order to the Bankruptcy Court under certification of counsel that is in form and substance acceptable to the U.S. Trustee that closes the D.W.S., Inc. (Case No. 19-11899) chapter 11 case. The Debtors' consolidated estate shall be administered through The News-Gazette, Inc. (Case No. 19-11901) pursuant to Article X.E hereof.

2. When all Disputed Claims have become Allowed or disallowed, the Reorganized Debtors have made Distributions on all Allowed Claims, and all of the Reorganized Debtors' duties otherwise have been completed, the Reorganized Debtors shall File the Final Certification and seek authority from the Bankruptcy Court to close The News-Gazette, Inc. Chapter 11 case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

**ARTICLE VI.**

**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Initial Distribution Date**

On the Initial Distribution Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall make, or shall make adequate reserves for, the Distributions required to be made under this Plan.

B. Reorganized Debtor Disputed Claims Reserve

1. Establishment of Reorganized Debtor Disputed Claims Reserve

On the Initial Distribution Date, and after making all Distributions required to be made on such date under this Plan, the Reorganized Debtors shall establish a separate Reorganized Debtor Disputed Claims Reserve for Disputed Claims, which Reorganized Debtor Disputed Claims Reserve shall be administered by the Reorganized Debtors. The Reorganized Debtors shall reserve in Cash or other property, for Distribution on account of each Disputed Claim, the Pro Rata amount that such Disputed Claim would be entitled to receive under this Plan if it were to become an Allowed Claim in its respective Class (or such other amount appropriate under this Plan.

2. Maintenance of Reorganized Debtor Disputed Claims Reserves

The Reorganized Debtors shall hold property in the Reorganized Debtor Disputed Claims Reserves in trust for the benefit of the Holders of Disputed Claims ultimately determined to be Allowed. The Reorganized Debtor Disputed Claims Reserve shall be closed and extinguished by the Reorganized Debtors when all Distributions and other dispositions of Cash or other property required to be made hereunder will have been made in accordance with the terms of this Plan. Upon closure of the Reorganized Debtor Disputed Claims Reserve, all Cash or other property held in the Disputed Claims Reserve shall revert in and become the property of the Reorganized Debtors. All funds or other property that vest or revert in the Reorganized Debtors pursuant to this paragraph shall be (a) used to pay the fees and expenses of the Reorganized Debtors in accordance with this Plan, and (b) thereafter distributed to Holders of Allowed Claims in accordance with this Plan. For the avoidance of doubt, if a Distribution on account of an Allowed General Unsecured Claim does not get claimed pursuant to this Plan, or if a Disputed General Unsecured Claim is disallowed in whole or in part, the funds held in the Reorganized Debtor Disputed Claims Reserve with respect to such disallowed General Unsecured Claims shall become part of the Reorganized Debtor General Unsecured Claims Reserve.

C. Subsequent Distributions

1. Any Distribution that is not made on the Initial Distribution Date or on any Subsequent Distribution Date because the Claim that would have been entitled to receive that Distribution is not an Allowed Claim on such date, shall be held by the Reorganized Debtors in the Reorganized Debtor Disputed Claims Reserve pursuant to Article VI.B and Distributed (in full, in the case of Administrative Expense Claims and Priority Claims; and up to its Ratable Proportion on account of its Allowed Claim with respect to the Claims in Classes 2 and 3) on the first Subsequent Distribution Date after such Claim is Allowed. No interest shall accrue or be paid on the unpaid amount of any Distribution paid on a Subsequent Distribution Date in accordance with this Article VI.C.

2. To the extent any Holder of an Allowed General Unsecured Claim or Holder of an Allowed Pension Claim that received a Distribution on account of such Claim on the Initial Distribution Date or any Subsequent Distribution Date is entitled to receive an additional Distribution on account of such Claim for any reason, including due to an increase in the Ratable Proportion of such Claim or (for Pension Claims only) additional assets becoming part of the

Reorganized Debtor Fund, the Reorganized Debtors shall, in their discretion, make such additional Distribution to such Holder on any Subsequent Distribution Date.

D. Record Date for Distributions

Except as otherwise provided in a Final Order of the Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Record Date will be treated as the Holders of those Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to the transfer may not have expired by the Record Date. The Reorganized Debtors shall have no obligation to recognize any transfer of any Claim occurring after the Record Date. In making any Distribution with respect to any Claim, the Reorganized Debtors shall be entitled instead to recognize and deal with, for all purposes hereunder, only the Entity that is listed on the proof of Claim Filed with respect thereto or on the Schedules as the Holder thereof as of the close of business on the Record Date and upon such other evidence or record of transfer or assignment that is actually known to the Reorganized Debtors as of the Record Date.

E. Delivery of Distributions

1. General Provisions; Undeliverable Distributions

Subject to Bankruptcy Rule 9010 and except as otherwise provided herein, Distributions to the Holders of Allowed Claims shall be made by the Reorganized Debtors or their designee, assuming the availability of funds and the economic feasibility of such Distributions, at (a) the address of each Holder as set forth in the Schedules, unless superseded by the address set forth on proofs of Claim Filed by such Holder or (b) the last known address of such Holder if no proof of Claim is Filed or if the Debtors or Reorganized Debtors have been notified in writing of a change of address. The Plan Administrator shall have the ability to make Distributions under this Plan on behalf of the Reorganized Debtors. If any Distribution is returned as undeliverable, the Reorganized Debtors may, in their discretion, make reasonable efforts to determine the current address of the Holder of the Claim with respect to which the Distribution was made as the Reorganized Debtors deems appropriate, provided that (i) no Distribution to any such Holder shall be made unless and until the Reorganized Debtors have determined the then-current address of such Holder, at which time the Distribution to such Holder shall be made to such Holder without interest, and (ii) if the Reorganized Debtors are unable to determine the then-current address of such Holder, such Distribution shall be deemed unclaimed as of the first date of return as undeliverable and treated as set forth below in Article VI.E.3. The Reorganized Debtors shall have the discretion to determine how to make Distributions in the most efficient and cost-effective manner possible; *provided, however*, that their discretion may not be exercised in a manner inconsistent with any express requirements of this Plan.

2. Minimum Distributions

Notwithstanding anything herein to the contrary, if a Distribution to be made to a Holder of an Allowed Claim on the Initial Distribution Date or any subsequent date for Distributions would be \$25.00 or less in the aggregate, no such Distribution will be made to that Holder unless a request therefor is made in writing to the Reorganized Debtors.

3. Unclaimed Property

Except with respect to property not Distributed because it is being held in the Reorganized Debtor Disputed Claims Reserve, Distributions that are not claimed by the expiration of ninety (90) days from the date of the relevant Distribution shall be deemed to be unclaimed property under section 347(b) of the Bankruptcy Code and shall vest or re-vest in the Reorganized Debtors, and the Claims with respect to which those Distributions are made shall be automatically cancelled. After the expiration of that ninety (90) day period, the Claim of any Entity to those Distributions shall be discharged and forever barred. Except as otherwise provided in this Article VI, nothing contained in this Plan shall require the Reorganized Debtors to attempt to locate any Holder of an Allowed Claim. All funds or other property that vest or re-vest in the Reorganized Debtors pursuant to this paragraph shall be (a) used to pay the fees and expenses of the Reorganized Debtors as and to the extent set forth in this Plan, and (b) thereafter distributed to Holders of Allowed Claims in accordance with this Plan. In the event the Reorganized Debtors hold Reorganized Debtor Assets after all Reorganized Debtor expenses are paid and all economically feasible Distributions are made, such remaining Reorganized Debtor Assets shall be liquidated to Cash and distributed to a charitable organization of the Reorganized Debtors' choice, including the Marajen Stevick Foundation, assuming such distribution is economically feasible. Neither unclaimed property nor any Reorganized Debtor Assets, shall escheat to any federal, state or local government or other entity.

F. Manner of Cash Payments Under This Plan

Cash payments made pursuant to this Plan shall be in United States dollars by checks drawn on a domestic bank selected by the Reorganized Debtors or by wire transfer from a domestic bank, at the option of the Reorganized Debtors.

G. Time Bar to Cash Payments by Check

Checks issued by the Reorganized Debtors on account of Allowed Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Requests for the reissuance of any check that becomes null and void pursuant to this Article VI.G. shall be made directly to the Reorganized Debtors by the Holder of the Allowed Claim to whom the check was originally issued. Any Claim in respect of such voided check shall be made in writing on or before ninety (90) days after the date of issuance thereof. After that date, all Claims in respect of void checks shall be discharged and forever barred, and the proceeds of those checks shall re-vest in and become the property of the Reorganized Debtors as unclaimed property in accordance with section 347(b) of the Bankruptcy Code and be distributed as provided in Article VI.E.3.

H. Limitations on Funding of Reorganized Debtor Disputed Claims Reserves

Except as expressly set forth in this Plan, neither the Debtors nor the Reorganized Debtors shall have any duty to fund the Reorganized Debtor Disputed Claims Reserve.

I. Compliance with Tax Requirements

1. In connection with making Distributions under this Plan, to the extent applicable, the Reorganized Debtors shall comply with all tax withholding and reporting requirements

imposed on it by any Governmental Unit, and all Distributions pursuant to this Plan shall be subject to such withholding and reporting requirements.

2. The Reorganized Debtors may require any Holder to provide the necessary information to comply with any withholding requirements of any Governmental Unit, including but not limited to Form W-9 or such Holder's tax identification number, provided that such requirement must be in writing and may be issued solely to the extent such information and documents are not contained in the Debtors' books and records or otherwise available absent such requirement.

3. The Reorganized Debtors may condition any distribution to any Holder upon the receipt of information and documents properly requested pursuant to paragraph (2) above. If such Holder does not furnish the required information and documents within thirty (30) days of such request, then such Holder's Distribution shall be treated as an undeliverable Distribution in accordance with Article VI.E.1.

J. Postpetition Interest on Claims

Except as specifically provided for in this Plan or the Confirmation Order, interest shall not accrue on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Except as expressly provided herein or in a Final Order of the Bankruptcy Court, no prepetition Claim shall be Allowed to the extent that it is for postpetition interest or other similar charges.

K. No Distribution in Excess of Allowed Amount of Claim

Notwithstanding anything to the contrary contained in this Plan, no Holder of an Allowed Claim shall receive in respect of that Claim any Distribution in excess of the Allowed amount of that Claim.

L. Setoff and Recoupment

The Reorganized Debtors may, but shall not be required to, setoff against, or recoup from, any Claim and the Distributions to be made pursuant to this Plan in respect thereof, any claims or defenses of any nature whatsoever that any of the Debtors, the Estates or the Reorganized Debtors may have against the Holder of such Claim, but neither the failure to do so nor the allowance of any Claim under this Plan shall constitute a waiver or release by the Debtors, the Estates or the Reorganized Debtors of any right of setoff or recoupment that any of them may have against the Holder of any Claim.

**ARTICLE VII.**

**DISPUTED CLAIMS**

A. No Distribution Pending Allowance

Notwithstanding any other provision of this Plan, the Reorganized Debtors shall not Distribute any Cash or other property on account of any Disputed Claim unless and until such Claim becomes Allowed.

B. Resolution of Disputed Claims

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Debtors and Reorganized Debtors shall have the right, but not to the exclusion of all others, to make, File, prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court, objections to Claims by the Claims Objection Bar Date. From and after the Confirmation Date, all objections with respect to Disputed Claims shall be litigated to a Final Order except to the extent the objector elects to withdraw any such objection or the objector and the claimant elect to compromise, settle or otherwise resolve any such objection, in which event they may settle, compromise or otherwise resolve any Disputed Claim without approval of the Bankruptcy Court. Any request to extend the Claims Objection Bar Date shall not be considered a modification to this Plan under section 1127 of the Bankruptcy Code.

C. Estimation of Claims

At any time, (a) prior to the Effective Date, the Debtors, and (b) subsequent to the Effective Date, the Reorganized Debtors may request that the Bankruptcy Court estimate any Claim to the extent permitted by section 502(c) of the Bankruptcy Code.

D. Disallowance of Claims

Any Claims held by Entities from which property is recoverable under sections 542, 543, 550 or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code, provided that such Cause of Action is a Retained Cause of Action, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any Distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Debtors.

E. Adjustment to Claims Without Objection

Any Claim that has been paid or satisfied, amended, or superseded may be marked as satisfied, adjusted or expunged on the Claims Register by the Noticing Agent at the direction of the Debtors or the Reorganized Debtors, as applicable, without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

F. Amendments to Claims or Equity Interests

After the Confirmation Date, a Claim or Equity Interest may not be Filed or amended without the authorization of the Bankruptcy Court and, even with such Bankruptcy Court authorization, may be amended by the Holder of such Claim or Equity Interest solely to decrease, but not to increase, unless otherwise provided by the Bankruptcy Court, the amount, number or priority of the same.

**EXCEPT AS PROVIDED HEREIN OR OTHERWISE AGREED, ANY AND ALL HOLDERS OF PROOFS OF CLAIM FILED AFTER THE APPLICABLE BAR DATE SHALL NOT BE TREATED AS CREDITORS FOR PURPOSES OF VOTING AND DISTRIBUTION PURSUANT TO BANKRUPTCY RULE 3003(c)(2) AND PURSUANT TO THE GENERAL BAR DATE ORDER, UNLESS ON OR BEFORE THE CONFIRMATION HEARING SUCH LATE CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.**

**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

A. Rejection of Executory Contracts and Unexpired Leases

1. On the Effective Date, except as otherwise provided herein, each executory contract or unexpired lease not previously rejected, assumed, or assumed and assigned, shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such executory contract or unexpired lease: (a) is specifically described in this Plan or the Plan Supplement as to be assumed in connection with Confirmation of this Plan; (b) is subject as of the Confirmation Date to a pending motion to assume or assume and assign; (c) has been assumed or assumed and assigned to a third party; (d) is a contract, instrument, release, indenture, or other agreement or document entered into in connection with this Plan or the Sale; or (e) is an insurance policy (including the D&O Insurance Policies) to be transferred to or vested in the Reorganized Debtors. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

2. Notwithstanding anything contained in this Plan to the contrary, in the event of a dispute as to whether a contract is executory or a lease is unexpired, the rights of the Debtors or the Reorganized Debtors, as applicable, to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract is executory or the lease is unexpired.

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

To the extent not previously rejected in accordance with an order of the Bankruptcy Court, Claims arising out of the rejection of an executory contract or unexpired lease pursuant to this Plan must be Filed with the Bankruptcy Court and by no later than thirty (30) days after the later of (a) notice of entry of an order approving the rejection of such Executory Contract or Unexpired Lease, including the Confirmation Order, or (b) notice of the entry of Confirmation Order, and upon

allowance, shall be an Allowed General Unsecured Claim. Any Claims not Filed within such applicable time periods shall be forever barred from receiving a distribution from the Debtors, the Estates, or the Reorganized Debtors. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article X.C. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely Filed as provided herein shall be treated as General Unsecured Claims under this Plan and shall be subject to the provisions of Article III of this Plan.

C. Debtors' Insurance Policies

Nothing in this Plan or the Confirmation Order alters the rights and obligations of the Debtors (and their Estates) and the Debtors' insurers (and third-party claims administrators) under the D&O Insurance Policies and the Debtors' other insurance policies or modifies the coverage or benefits provided thereunder or the terms or conditions thereof or diminishes or impairs the enforceability of the Debtors' insurance policies. The Reorganized Debtors shall not be required to seek or enter into new any insurance policies and may rely upon the same insurance policies as the Debtors.

**ARTICLE IX.**

**CONDITIONS PRECEDENT TO THE EFFECTIVE DATE**

A. Conditions Precedent to the Effective Date

The following are conditions precedent to the Effective Date that must be satisfied or waived:

1. The Confirmation Order has become a Final Order.
2. The Confirmation Order shall be in full force and effect.
3. The sales of the Champaign Property and the Paxton Property shall have closed and funds shall have been received pursuant to the Real Estate Purchase Agreements.
4. Notwithstanding the foregoing, the Debtors reserve the right to waive the occurrence of any condition precedent to the Effective Date or to modify any of the foregoing conditions precedent. Any such waiver of a condition precedent set forth in this Article may be effected at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate this Plan. Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action.

B. Establishing the Effective Date

The calendar date to serve as the Effective Date shall be a Business Day of, on or promptly following the satisfaction or waiver of all conditions to the Effective Date, which date will be selected by the Debtors. On or within two (2) Business Days of the Effective Date, the Debtors shall File and serve a notice of occurrence of the Effective Date. Such notice shall contain, among



other things, the Administrative Bar Date, the Professional Claims Bar Date, and the Rejection Claims Bar Date.

## ARTICLE X.

### EXCULPATION, INJUNCTION AND RELATED PROVISIONS

#### A. Compromise and Settlement

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims and Equity Interests. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all Claims and Equity Interests, as well as a finding by the Bankruptcy Court that such compromise or settlement is fair, equitable, reasonable and in the best interests of the Debtors, the Estates and Holders of Claims and Equity Interests.

#### B. Exculpation

**Notwithstanding anything contained in this Plan to the contrary, effective as of the Effective Date, the Exculpated Parties shall not have or incur any liability for any act or omission taken or not taken between the Petition Date and the Effective Date in connection with, relating to, or arising out of the Chapter 11 Cases, the Sale, the negotiation and Filing of the Disclosure Statement, this Plan or any document implementing this Plan, the Filing of the Chapter 11 Cases, the settlement of Claims or renegotiation of executory contracts and leases, the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be Distributed under this Plan, except for acts or omissions that are the result of willful misconduct, gross negligence, fraud or criminal acts or any obligations that they have under or in connection with this Plan or the transactions contemplated in this Plan, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.**

#### C. Injunction

1. Pursuant to section 1141(d)(3) of the Bankruptcy Code, confirmation of this Plan will not discharge the Debtors; *provided, however*, upon confirmation of this Plan, the occurrence of the Effective Date, and Distributions hereunder, the Holders of Claims or Equity Interests may not seek payment or recourse against or otherwise be entitled to any Distribution from the Reorganized Debtor Assets except as expressly provided in this Plan.

2. Except as otherwise expressly provided for in this Plan or in obligations issued pursuant to this Plan, all Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Equity Interest, from:

(a) commencing or continuing in any manner any action or other proceeding of any kind against any of the Debtors, the Estates, the Reorganized Debtors, their successors and assigns, and any of their assets and properties;

(b) **enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any of the Debtors, the Estates, the Reorganized Debtors, their successors and assigns, and any of their assets and properties;**

(c) **creating, perfecting or enforcing any encumbrance of any kind against any of the Debtors, the Estates, the Reorganized Debtors, their successors and assigns, and any of their assets and properties;**

(d) **asserting any right of setoff or subrogation of any kind against any obligation due from any of the Debtor, the Estates, the Reorganized Debtors or their successors and assigns, or against any of their assets and properties, except to the extent a right to setoff or subrogation is asserted with respect to a timely Filed proof of Claim; or**

(e) **commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Equity Interest or Cause of Action released or settled hereunder.**

**3. From and after the Effective Date, all Entities are permanently enjoined from commencing or continuing in any manner against the Debtors, the Estates, their successors and assigns, and any of their assets and properties, any suit, action or other proceeding, on account of or respecting any Claim or Cause of Action released or to be released pursuant to this Plan or the Confirmation Order.**

**4. From and after the Effective Date, all persons and Entities are permanently enjoined from commencing or continuing in any suit, action, or other proceeding on account of or respecting any Claim or Cause of Action released or to be released pursuant to this Plan or the Confirmation Order.**

#### **D. Releases of Liens**

Except as otherwise provided in this Plan or in the Confirmation Order, on the Effective Date, to the extent such exist, all mortgages, deeds of trust, liens, pledges or other security interests against property of the Debtors or the Estates shall be fully released and discharged and all of the right, title and interest of any holder of such mortgages, deeds of trust, liens, pledges or other security interest shall revert to the Debtors and the Reorganized Debtors.

#### **E. Substantive Consolidation**

1. This Plan shall serve as a motion by the Debtors seeking entry of an order deeming the Estates of all of the Debtors consolidated into a single estate for the purposes of voting, confirmation, and distributions under this Plan. Intercompany Claims are deemed to be satisfied and resolved by the substantive consolidation provided for herein.

2. The entry of the Confirmation Order shall constitute approval by the Bankruptcy Court of the substantive consolidation of the Debtors and their respective Estates for all purposes relating to this Plan, including for purposes of voting, confirmation and Distributions. If this

substantive consolidation is approved, then for all purposes associated with the confirmation and consummation of this Plan, all assets and liabilities of the Debtors shall be treated as though they were merged into a single economic unit, and all guarantees by any Debtor of the obligations of any other Debtor, to the extent such exist, shall be considered eliminated so that any Claim and any guarantee thereof by any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor, shall be treated as one collective obligation of the Debtors. Moreover, (a) no Distribution shall be made under this Plan on account of any Claim held by any one of the Debtors against any of the other Debtors and such Intercompany Claims will be extinguished, (b) no Distribution shall be made under this Plan on account of any Equity Interest held by any one of the Debtors in any of the other Debtors except to the extent necessary to effect the substantive consolidation provided for herein, (c) all guaranties of any one of the Debtors of the obligations of any of the other Debtors, to the extent such exist, shall be eliminated so that any Claim against any one of the Debtors, and any guaranty thereof executed by any of the other Debtors, shall be one obligation of the consolidated Debtors' Estates, and (d) every Claim that is timely Filed or to be Filed in the Chapter 11 Cases of any of the Debtors shall be deemed Filed against the consolidated Estates and shall be one Claim against, and one obligation of, the Estates.

3. In addition, notwithstanding any provision of this Plan to the contrary, any Holder of multiple Allowed Claims against more than one Debtor that arise from the contractual, joint, joint and several, or several liability of such Debtors, the guaranty by one Debtor of another Debtor's obligation or other similar circumstances, shall be entitled to *one* Allowed Claim that, in the aggregate, does not exceed the amount of the underlying Claim giving rise to such multiple Claims. Claims against more than one of the Debtors arising from the same injury, damage, cause of action or common facts shall be Allowed only once as if such Claim were against a single Debtor.

4. Any alleged defaults under any applicable agreement, including executory contracts and unexpired leases, with the Debtors arising from substantive consolidation under this Plan shall be deemed cured as of the Effective Date.

5. The Debtors' consolidated Estate shall be administered in and through the Chapter 11 Cases.

#### F. Preservation of Rights of Action

##### 1. Vesting of Causes of Action

(a) Except as otherwise provided in this Plan or Confirmation Order, in accordance with section 1123(b)(3) of the Bankruptcy Code, any Retained Causes of Action that the Debtors may hold against any Entity shall vest upon the Effective Date in the Reorganized Debtors.

(b) Except as otherwise provided in this Plan or Confirmation Order, after the Effective Date, the Reorganized Debtors shall have the exclusive right to institute and prosecute any Retained Causes of Action, without further order of the Bankruptcy Court, in any court or other tribunal, including, without limitation, in an adversary proceeding Filed in one or more of the Chapter 11 Cases. The Reorganized Debtors shall not settle,

compromise, or otherwise resolve any Retained Causes of Action that are in excess of \$100,000 without first obtaining approval of the Bankruptcy Court.

(c) Retained Causes of Action and any recoveries therefrom shall remain the sole property of the Reorganized Debtors (for the sole benefit of the Holders of Allowed Claims).

2. Preservation of All Retained Causes of Action Not Expressly Settled or Released

(a) Unless a Retained Cause of Action is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including the Confirmation Order), the Debtors and the Reorganized Debtors expressly reserve such Retained Cause of Action for later adjudication by the Reorganized Debtors (including, without limitation, Retained Causes of Action not specifically identified or described herein or elsewhere or of which the Debtors may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances which may change or be different from those the Debtors now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Retained Causes of Action upon or after the entry of the Confirmation Order or Effective Date based on the Disclosure Statement, Plan or Confirmation Order, except where such Retained Causes of Action have been released in this Plan or any other Final Order (including the Confirmation Order). In addition, the Reorganized Debtors expressly reserve the right to pursue or adopt any claims alleged in any lawsuit in which the Debtors are defendants or interested parties, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

(b) Subject to the immediately preceding paragraph, (i) any Entity to whom the Debtors have incurred an obligation (whether on account of services, purchase or sale of goods or otherwise), (ii) any Entity who has received services from the Debtors or a transfer of money or property of the Debtors, or (iii) any Entity who has transacted business with the Debtors, or leased property from the Debtors should, in each case, assume that any such act, omission, obligation, transfer or transaction may be reviewed by the Reorganized Debtors subsequent to the Effective Date and may be the subject of an action after the Effective Date, regardless of whether: (A) such Entity has Filed a proof of Claim against the Debtors in the Chapter 11 Cases; (B) the Debtors or Reorganized Debtors have objected to any such Entity's proof of Claim; (C) any such Entity's Claim was included in the Schedules; (D) the Debtors or Reorganized Debtors have objected to any such Entity's scheduled Claim; or (E) any such Entity's scheduled Claim has been identified by the Debtors or Reorganized Debtors as disputed, contingent or unliquidated.

## ARTICLE XI.

### RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors and this Plan as is legally permissible, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date;
3. resolve any matters related to the assumption, assignment or rejection of any executory contract or unexpired lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom, including those matters related to any amendment to this Plan after the Effective Date pursuant to Article XII.B;
4. ensure that Distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of this Plan;
5. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtors after the Effective Date, including but not limited to any Retained Causes of Action; *provided, however*, that the Reorganized Debtors shall reserve the right to commence actions in all appropriate jurisdictions;
6. enter such orders as may be necessary or appropriate to implement or consummate the provisions of this Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with this Plan, the Plan Supplement or the Disclosure Statement;
7. resolve any cases, controversies, suits or disputes that may arise in connection with the Effective Date, interpretation or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
8. issue and enforce injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Effective Date or enforcement of this Plan, except as otherwise provided in this Plan;
9. enforce the injunction set forth in Article X.C hereof;

10. resolve any cases, controversies, suits or disputes with respect to the injunction and other provisions contained in Article X, and enter such orders as may be necessary or appropriate to implement or enforce all such injunctions and other provisions;

11. enter and implement such orders as necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

12. resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement;

13. resolve any disputes and determine any other matters that may arise in connection with or related to the Sale Order or any contract, instrument, release, indenture or other agreement or document created or implemented in connection with the Sale Order;

14. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code; and

15. enter an order and/or the decree contemplated in Bankruptcy Rule 3022 concluding the Chapter 11 Cases.

## **ARTICLE XII.**

### **MISCELLANEOUS PROVISIONS**

#### **A. Payment of Statutory Fees**

All fees due and payable pursuant to 28 U.S.C. § 1930 prior to the Effective Date shall be paid by the Debtors on the Effective Date. After the Effective Date, the Reorganized Debtors shall pay any and all such fees when due and payable, and the Reorganized Debtors shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. Notwithstanding the substantive consolidation of the Debtors provided for in this Plan, each and every one of the Debtors shall remain obligated to pay quarterly fees to the U.S. Trustee until the earliest of that particular Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

#### **B. Modification of Plan**

Subject to the limitations contained in this Plan: (1) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code; and (2) after the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as the case may be, may amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

C. Revocation of Plan

The Debtors reserve the right to revoke or withdraw this Plan prior to the entry of the Confirmation Order and to File subsequent chapter 11 plans. If the Debtors revoke or withdraw this Plan or if entry of the Confirmation Order or the Effective Date does not occur, then: (1) this Plan shall be null and void in all respects; (2) any settlement or compromise embodied in this Plan, rejection of executory contracts or leases effected by this Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission of any sort by the Debtors or any other Entity.

D. Successors and Assigns

The rights, benefits and obligations of any Entity named or referred to herein shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.

E. Governing Law

Except to the extent that the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

F. Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the Holders of Claims or Equity Interests or other parties-in-interest; or (2) any Holder of a Claim or other party-in-interest prior to the Effective Date.

G. Section 1146 Exemption

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment.

H. Section 1125(e) Good Faith Compliance

The Debtors and each of their respective Representatives shall be deemed to have acted in "good faith" under section 1125(e) of the Bankruptcy Code.

I. Further Assurances

The Debtors, the Reorganized Debtors, all Holders of Claims receiving Distributions hereunder, the Holders of Equity Interests in the Debtors and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order.

J. Service of Documents

Any pleading, notice or other document required by this Plan to be served on or delivered to the Debtors, the Reorganized Debtors, or the Plan Administrator shall be sent by first class U.S. mail, postage prepaid as follows:

McDonald Hopkins LLC  
Attn: Nicholas Miller  
300 N. LaSalle Street, Suite 1400  
Chicago, IL 60654

Chipman Brown Cicero & Cole LLP  
Attn: William Chipman  
Hercules Plaza, 1313 North Market St., Suite 5400  
Wilmington, DE, 19801

K. Filing of Additional Documents

On or before the Effective Date, the Debtors may File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

L. No Stay of Confirmation Order

The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Bankruptcy Rules 3020(e) and 7062.

M. Aid and Recognition

The Debtors or Reorganized Debtors, as the case may be, shall, as needed to effect the terms hereof, request the aid and recognition of any court or judicial, regulatory or administrative body in any other nation or state.

\* \* \* \* \*



Dated: June 25, 2020  
Wilmington, Delaware

By: THE NEWS-GAZETTE, INC.

By: /s/John Reed  
JOHN REED, CEO

D.W.S., INC.

By: /s/John Reed  
JOHN REED, CEO