



the Court having reviewed the Motion and the exhibits thereto and the Declaration of Adam Meislik in Support of the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having conducted a hearing on the Motion (the “**Sale Hearing**”) on November 24, 2015, at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and all objections to the Motion having been withdrawn, resolved or overruled as provided in this Order; and the relief requested in the Motion being in the best interests of the Debtor, its estate and its creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby

**FOUND AND DETERMINED THAT:**

A. **Fed. R. Bankr. P. 7052.** The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. The Court’s findings shall also include any oral findings of fact and conclusions of law made by the Court during or at the conclusion of the Sale Hearing.

B. **Jurisdiction and Venue.** This Court has jurisdiction to decide the Motion and over the Sale and the Property pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b). This matter is a core proceeding pursuant to 28 U. S.C. § 157(b)(2). Venue of this chapter 11 case and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

C. **Statutory and Rule Predicates.** The statutory and other legal predicates for the relief sought in the Motion are sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy

Rules 2002, 6004, and 6006, Local Bankruptcy Rules 6004-1 and 6006-1, and the Amended Guidelines for the Conduct of Asset Sales, Approved by Administrative Order Number 383 in the United States Bankruptcy Court for the Southern District of New York.

D. **Notice and Opportunity to Object.** Actual written notice of, and a fair and reasonable opportunity to object to and to be heard with respect to the Motion, the Sale and the relief requested in the Motion has been given, as required by the Bankruptcy Code and the Bankruptcy Rules, to all Persons entitled to notice, including, but not limited to, the following: (a) the Office of the United States Trustee, (b) counsel for the Buyer; (c) counsel for the Petitioning Creditors; (d) all known creditors of the Debtor; (e) all parties asserting a security interest in the assets of the Debtor to the extent reasonably known to the Debtor, (f) various federal, state, county and city tax and regulatory authorities, and (g) all parties requesting notice pursuant to Bankruptcy Rule 2002.

E. **Final Order.** This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

F. **Sound Business Purpose.** The Debtor has demonstrated good, sufficient, and sound business purposes and justifications for approval of the Motion, the Purchase and Sale Agreement dated October 23, 2015 (attached as Exhibit B to the Motion) (“**Purchase and Sale Agreement**”), and the Sale and in entering into the Purchase and Sale Agreement and related agreements, instruments and documents (the “**Related Agreements**”). The Debtor’s entry into and performance under the Purchase and Sale Agreement and Related Agreements (i) are a result of due deliberation by the Debtor and constitute a sound and reasonable exercise of the Debtor’s business judgment consistent with its fiduciary duties, (ii) provide value to and are beneficial to the Debtor’s estate, and are in the best interests of the Debtor and its stakeholders, and (iii) are

reasonable and appropriate under the circumstances. Business justifications for the Sale include, but are not limited to, the following: (i) the Purchase and Sale Agreement constitutes the highest and best offer received for the Property; (ii) the Purchase and Sale Agreement presents the best opportunity to maximize the value of the Property; (iii) unless the Sale and all of the other transactions contemplated by the Purchase and Sale Agreement are concluded expeditiously, as provided for pursuant to the Purchase and Sale Agreement, recoveries to creditors may be materially diminished; and (iv) the value of the Debtor's estate will be maximized through the sale of the Property pursuant to the Purchase and Sale Agreement.

G. **Highest and Best Value.** As demonstrated by the evidence proffered or adduced at the Sale Hearing, (i) the Debtor and its advisors, including Glass Ratner Capital & Advisory Group LLC, marketed the assets to potential investors and strategic buyers and no other interested party expressed an interest in the Property, (ii) the Debtor conducted a fair sale process, (iii) the sale process was non-collusive, the Motion was duly noticed and provided a full, fair and reasonable opportunity for any entity to make an offer to purchase the Property, and (iv) the Sale represents the highest and best value for the Property for the Debtor and its estate, and any other transaction would not have yielded as favorable an economic result.

H. **Fair Consideration.** The consideration to be paid by Buyer under the Purchase and Sale Agreement (i) constitutes fair and reasonable consideration for the Property, (ii) is the highest and best offer for the Property, (iii) will provide a greater recovery for the Debtor's estate and creditors than would be provided under any other practically available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and other laws of the United States, any state, territory, possession or District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

I. **No Successor or Other Derivative Liability.** Buyer is not, and will not be, a mere continuation, and is not holding itself out as a mere continuation, of the Debtor or its respective estates and there is no continuity between Buyer and the Debtor. The Sale does not amount to a consolidation, merger or *de facto* merger of Buyer and the Debtor.

J. **Good Faith; No Collusion.** The Debtor and Buyer, and their respective counsel and advisors, have negotiated, proposed and entered into the Purchase and Sale Agreement and each of the transactions contemplated in good faith, without collusion and from arm's-length bargaining positions. The Buyer is a "good faith purchaser" and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. All payments to be made by the Buyer and all other material agreements or arrangements entered into by the Buyer and the Debtor in connection with the Sale have been disclosed and are appropriate. Neither the Debtor nor Buyer have engaged in any conduct that would cause or permit the Purchase and Sale Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Buyer is not an "insider" or "affiliate" of the Debtor, as those terms are defined in section 101 of the Bankruptcy Code. Buyer has disclosed that certain former directors and officers of the Debtor are expected to be officers and/or employees of Buyer and/or minority investors in Buyer.

K. **Notice.** As evidenced by the certificates of service filed with the Court: (i) proper, timely, adequate and sufficient notice of the Motion, the Sale Hearing, the Sale and the Proposed Sale Order was provided by the Debtor; (ii) such notice was good, sufficient and appropriate under the particular circumstances; and (iii) no other or further notice of the Motion, the Sale, the Sale Hearing or the Proposed Sale Order is required.

L. **Satisfaction of Section 363(f) Standards.** The Debtor may sell the Property free and clear of all liens, claims (including those that constitute a “claim” as defined in section 101(5) of the Bankruptcy Code), interests, and encumbrances, including, without limitation, any transferee or successor liability claims because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code have been satisfied. All Persons having Claims of any kind or nature whatsoever against the Debtor or the Property shall be forever barred, estopped and permanently enjoined from pursuing or asserting such claims against Buyer or any of its assets, property, affiliates, successors, assigns, or the Property.

M. Buyer would not have entered into the Purchase and Sale Agreement and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtor and its estate and its creditors, if the sale of the Property was not free and clear of all claims, or if Buyer would, or in the future could, be liable for any such claims.

N. The total consideration to be provided under the Purchase and Sale Agreement reflects Buyer’s reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Property free and clear of all claims (including, without limitation, any potential derivative, vicarious, transferee or successor liability claims).

O. **Validity of the Transfer.** As of the Closing, the transfer of the Property to Buyer will be a legal, valid and effective transfer of the Property, and will vest Buyer with all right, title and interest of the Debtor in and to the Property, free and clear of all claims.

P. The Debtor (i) has full corporate power and authority to execute the Purchase and Sale Agreement and Related Agreements contemplated thereby, and the Sale has been duly and validly authorized by all necessary corporate action of the Debtor, (ii) has all of the corporate

power and authority necessary to consummate the transactions contemplated by the Purchase and Sale Agreement, and (iii) upon entry of this Order, other than any consents identified in the Purchase and Sale Agreement, needs no consent or approval from any other Person to consummate the Sale.

Q. The Property constitutes property of the Debtor's estate and good title is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code. The Debtor is the sole and rightful owner of the Property, and no other Person has any ownership right, title, or interests therein. The Debtor has all title, interest, and/or rights in the Property required to transfer and to convey the Property to the Buyer, as required by the Purchase and Sale Agreement.

R. The Purchase and Sale Agreement is a valid and binding contract between the Debtor and the Buyer and shall be enforceable pursuant to its terms. The Purchase and Sale Agreement and the Sale itself, and the consummation thereof shall be binding upon (without posting any bond) the Debtor, any chapter 7 or chapter 11 trustee appointed in this chapter 11 case, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person.

S. Other than any claims arising under the Purchase and Sale Agreement, the Debtor agrees and acknowledges that it has no claims against the Buyer.

T. **Waiver of Bankruptcy Rules 6004(h) and 6006(d)**. The sale of the Property must be approved and consummated promptly in order to preserve the value of the Property. Therefore, time is of the essence in consummating the Sale and the Debtor and the Buyer intend to close the Sale as soon as reasonably practicable. The Debtor has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the

immediate approval and consummation of the Sale as contemplated by the Purchase and Sale Agreement. Accordingly, there is sufficient cause to lift the stay contemplated by Bankruptcy Rules 6004(h) and 6006(d) with regards to the transactions contemplated by this Order.

U. **Personally Identifiable Information.** As may be contemplated in the Purchase and Sale Agreement, and subject to the terms of this Order, the sale to Buyer under the Purchase and Sale Agreement of personally identifiable information (as such term is defined in section 101(41A) of the Bankruptcy Code) about individuals, if any, is consistent with the privacy policy of the Debtor in effect on the filing of the involuntary petition on July 27, 2015.

V. **Legal and Factual Bases.** The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

**NOW THEREFORE, IT IS ORDERED THAT:**

1. **Motion is Granted.** The Motion and the relief requested therein is granted and approved as set forth herein.

2. **Objections Overruled.** All objections, if any, to the Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits.

3. **Notice.** Notice of the Sale Hearing was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006.

4. **Fair Purchase Price.** The consideration provided by the Buyer under the Purchase and Sale Agreement is fair and reasonable and constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair



consideration under the Uniform Fraudulent Conveyance Act, and (iii) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States.

5. **Approval of the Purchase and Sale Agreement.** The Purchase and Sale Agreement, in substantially the form annexed as *Exhibit B* to the Motion, all transactions contemplated therein and all of the terms and conditions thereof are hereby approved. The failure specifically to include any particular provision of the Purchase and Sale Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase and Sale Agreement be authorized and approved in its entirety.

6. **Consummation of Sale Transaction.** Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtor, as well as its agents and authorized representatives, are authorized to execute, deliver and perform their obligations under and comply with the terms of the Purchase and Sale Agreement and to close and consummate the Sale, pursuant to and in accordance with the terms and conditions of the Purchase and Sale Agreement and this Order.

7. The Debtor and its agents are authorized to execute and deliver, and authorized to perform under, consummate and implement all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase and Sale Agreement and to take all further actions as may be reasonably required for the purpose of assigning, transferring, granting, conveying and conferring the Property to the Buyer, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase and Sale Agreement, all without further order of the Court.

8. All Persons that are currently in possession of some or all of the Property are hereby directed to surrender possession of such Property to Buyer as of the Closing. The Debtor agrees to exercise commercially reasonable efforts to assist the Buyer in assuring that all

Persons, if any, that are presently, or on the Closing Date may be, in possession of some or all of the Property will surrender possession of the Property to either (i) the Debtor before the Closing Date or (ii) the Buyer after the Closing Date.

9. Each and every any federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase and Sale Agreement.

10. **Transfer of Assets Free and Clear.** Pursuant to sections 105(a), 363(b), 363(f) and 365 of the Bankruptcy Code, the Debtor is authorized to transfer the Property in accordance with the terms of the Purchase and Sale Agreement. The Property shall be transferred to the Buyer, and upon the Closing, such transfer shall: (a) be valid, legal, binding and effective; (b) vest Buyer with all right, title and interest of the Debtor in the Property; and (c) be free and clear of any and all liabilities, liens, claims (including those that constitute a “claim” as defined in section 101(5) of the Bankruptcy Code), interests and encumbrances against the Property, with such liabilities, liens, claims, interests and encumbrances, if any, to attach to the proceeds of the Sale with the same force, effect, and priority as such liabilities, liens, claims (including those that constitute a “claim” as defined in section 101(5) of the Bankruptcy Code), interests and encumbrances have on the Property, as appropriate, and subject to any claims and defenses the Debtor may possess with respect thereto in each case immediately before the Closing.

11. Except with respect to enforcement of the Purchase and Sale Agreement, all Persons (and their respective successors and assigns) including, without limitation, the Debtor, the Debtor’s estate, all debt security holders, equity security holders, governmental, tax and

regulatory authorities, governmental units, lenders, employees, former employees, and any other creditors holding claims (including those that constitute a “claim” as defined in section 101(5) of the Bankruptcy Code) against the Debtor, the Property, or the Debtor’s business (whether legal or equitable, secured or unsecured, matured and unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtor, the Property or the Debtor’s business prior to the Closing Date or the transfer of the Property to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting or pursuing such claims against the Buyer, its affiliates, successors or assigns, its property or the Property, including without limitation, taking any of the following actions: (a) commencing or continuing in any manner any action or other proceeding against the Buyer, its affiliates, successors or assigns, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against the Buyer, its affiliates, successors or assigns, assets or properties; (c) creating, perfecting, or enforcing any claims against the Buyer or its successors or assigns, assets or properties; (d) asserting setoff, right of subrogation or recoupment of any kind against any obligation due the Buyer or its successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order or the agreements or actions contemplated or taken in respect thereof.

12. This Order (a) shall be effective as a determination that, as of the Closing, all claims against the Property by any Person have been unconditionally released, discharged and terminated as to the Buyer and the Property, and that the conveyances and transfers described herein have been effected, and (b) is and shall be binding upon and govern the acts of all Persons, including all filing agents, filing officers, title agents, title companies, recorders of

mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other Persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing Persons is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase and Sale Agreement.

13. Following the Closing of the Sale, no holder of any claim shall interfere with Buyer's title to or use and enjoyment of the Property based on or related to any such claim or based on any actions the Debtor may take in this chapter 11 case.

14. **No Successor or Other Derivative Liability.** As a result of the transaction contemplated by the Purchase and Sale Agreement, the Buyer will not be a successor to the Debtor by reason of any theory of law or equity, and the Buyer shall have no liability, except as otherwise provided in the Purchase and Sale Agreement, for any obligation, claim, or lien of the Debtor as a result of any application of successor liability theories.

15. **Statutory Mootness.** The transactions contemplated by the Purchase and Sale Agreement are undertaken by the Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein of the Sale shall neither affect the validity of the Sale nor the transfer of the Property to the Buyer, free and clear of claims, unless such authorization is duly stayed before the Closing pending such appeal. Buyer is a purchaser in good faith of the Property, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code

16. **No Avoidance of Purchase and Sale Agreement.** Neither the Debtor nor Buyer has engaged in any conduct that would cause or permit the Purchase and Sale Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code.

17. **Waiver of Bankruptcy Rules 6004(h) and 6006(d).** Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay within the time prescribed by law and prior to the Closing, or risk its appeal will be foreclosed as moot.

18. **Personally Identifiable Information.** After giving due consideration to the facts, circumstances and conditions of the Purchase and Sale Agreement, no showing was made that the sale of any personally identifiable information contemplated in the Purchase and Sale Agreement, subject to the terms of this Order, would violate applicable nonbankruptcy law or any policy of the Debtor.

19. **New Media and Goodwin.** Notwithstanding anything to the contrary in this Order or the Purchase and Sale Agreement, the Property transferred to the Buyer and subject to the Sale shall not include that certain Agreement, dated May 14, 2013 (the “**License Agreement**”) between New Media, as transferred to Goodwin, nor shall it include any intellectual property, software and/or source code of New Media and/or Goodwin Solutions, including but not limited to the Booking System (as defined in the License Agreement) and any source code for the Booking System (collectively, the “**New Media/Goodwin Solutions Property**”). In the event the Debtor and/or Buyer discover that any New Media/Goodwin

Solutions Property is on any of the machines or other Property that is transferred as part of the Sale, the Debtor and/or the Buyer shall immediately notify New Media and Goodwin Solutions and provide them with proof by sworn declaration under penalty of perjury that they immediately erased or otherwise destroyed such New Media/Goodwin Solutions Property. Further, the Debtor is not assigning the License Agreement to the Buyer.

20. **Binding Effect of this Order.** The terms and provisions of the Purchase and Sale Agreement and this Order shall be binding in all respects upon, or shall inure to the benefit of, the Debtor, its estate and its creditors, the Buyer, and its Affiliates, successors and assigns, and any affected third parties, including all Persons asserting claims, notwithstanding any subsequent appointment of any trustee, examiner or receiver under any chapter of the Bankruptcy Code or any other law, and all such provisions and terms shall likewise be binding on such trustee, examiner or receiver and shall not be subject to rejection or avoidance by the Debtor, its estates, its creditors or any trustee, examiner or receiver.

21. **Conflicts; Precedence.** In the event that there is a direct conflict between the terms of this Order, the Purchase and Sale Agreement, and any documents executed in connection therewith, the terms of this Order, the Purchase and Sale Agreement, and any documents executed in connection therewith shall control, in that order. Nothing contained in any chapter 11 plan hereinafter confirmed in this chapter 11 case, any order entered in this chapter 11 case, or any order entered after any conversion of this chapter 11 case to a case under chapter 7 of the Bankruptcy Code or in any related proceeding shall alter or derogate from the provisions of the Purchase and Sale Agreement or the terms of this Order.

22. **Modification of Purchase and Sale Agreement.** The Purchase and Sale Agreement, and any Related Agreements, may be modified, amended or supplemented by the

parties thereto, in a writing signed by each party, and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not materially change the terms of the Purchase and Sale Agreement or any Related Agreements.

23. **Bulk Sales.** No bulk sales law, or similar law of any state or other jurisdiction shall apply in any way to the transactions contemplated by the Purchase and Sale Agreement, the Motion or this Order.

24. **Retention of Jurisdiction.** This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order and to enforce the injunctions set forth herein.

25. **Objection of New Media.** The Objection of New Media and Goodwin is resolved on the terms set forth herein.

Dated: November 24, 2015  
New York, New York

/s/ Sean H. Lane  
UNITED STATES BANKRUPTCY JUDGE