

FILED 7/29/2024
DOCUMENT NO. 07970-2024
FPSC - COMMISSION CLERK

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

In re:

GIGAMONSTER NETWORKS, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 23-10051 (JKS)

(Jointly Administered)

RECEIVED-FPSC
2024 JUL 29 PM 12:29
COMMISSION CLERK

NOTICE OF (I) CONDITIONAL APPROVAL OF DISCLOSURES; (II) HEARING TO CONSIDER CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND PLAN; (III) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND PLAN; AND (IV) DEADLINE FOR VOTING ON THE COMBINED DISCLOSURE STATEMENT AND PLAN

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On January 16, 2023 (the "Petition Date"), GigaMonster Networks LLC and certain affiliates, the above-captioned debtors and debtors in possession (the "Debtors"), commenced their cases by filing their respective voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors have continued in the possession of their property and have continued to operate and manage their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

THE COMBINED DISCLOSURE STATEMENT AND PLAN

2. On June 25, 2024, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation of Gigamonster Networks LLC and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 802] (including all exhibits thereto and as amended, supplemented or otherwise modified from time to time, the "Combined Disclosure Statement and Plan").

INTERIM CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT

3. By an Order dated July 17, 2024 (the "Solicitation Procedures Order"), the Bankruptcy Court conditionally approved, on an interim basis, the disclosures (the "Disclosures") in the Combined Disclosure Statement and Plan as containing adequate information within the meaning of section 1125 of Bankruptcy Code. The Solicitation Procedures Order expressly reserves all parties' rights to raise objections to the adequacy of information in the Disclosures and Combined Disclosure Statement and Plan.

¹ The Debtors, along with the last four (4) digits of each Debtor's federal tax identification number are: GigaMonster Networks, LLC (2854); Gigasphere Holdings LLC (0250); GigaMonster, LLC (3014); Fibersphere Communications LLC (0163); and Fibersphere Communications of California LLC (5088). The Debtors' business address is 350 Franklin Gateway, Suite 300, Marietta, GA 30067.

4. By the Solicitation Procedures Order, the Court established **August 20, 2024 at 5:00 p.m. (Prevailing Eastern Time)** (the “Voting and Release Opt-Out Deadline”) as the deadline by which ballots accepting or rejecting the Combined Disclosure Statement and Plan and Non-Voting Opt-Out Election Forms must be received. To be counted, your executed ballot or Non-Voting Opt-Out Election Form must actually be **received** on or before the Voting and Release Opt-Out Deadline by the Voting Agent in accordance with the instructions found on the ballot or Non-Voting Opt-Out Election Form.

THE COMBINED HEARING

5. On **August 27, 2024 at 1:00 p.m. (Prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, a hearing will be held before the Honorable J. Kate Stickles in the U.S. Bankruptcy Court, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, DE 19801 to consider final approval of the Disclosures and confirmation of the Combined Disclosure Statement and Plan, as the same may be amended or modified (the “Combined Hearing”).

6. The Combined Hearing may be adjourned from time to time. If the Combined Hearing is adjourned, the Debtors will file a notice of adjournment on the docket and serve it by email if available, otherwise by first class or overnight mail, on the parties who have requested notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(b) and on any parties that have filed objections to approval of the Disclosures or confirmation of the Combined Disclosure Statement and Plan. The Combined Disclosure Statement and Plan may be modified in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Combined Disclosure Statement and Plan, and other applicable law, without further notice, prior to or as a result of the Combined Hearing.

INJUNCTIONS, RELEASES, AND DISCHARGE

7. Article X E, F, and G of the Combined Disclosure Statement and Plan contain the exculpation, release, and injunction provisions set forth below:

Exculpation: The Exculpated Parties will neither have nor incur any liability to any entity for any action in good faith taken or omitted to be taken between the Petition Date and Effective Date in connection with or related to the chapter 11 cases, the sale or other disposition of the Debtors’ assets or the formulation, preparation, dissemination, implementation, Confirmation, or Consummation of the Plan, the Disclosure Statement, or any agreement created or entered into in connection with the Plan; *provided, however*, that this limitation will not affect or modify the obligations created under the Plan, or the rights of any holder of an Allowed Claim to enforce its rights under the Plan, and shall not release any action (or inaction) constituting willful misconduct, fraud, or gross negligence (in each case subject to determination of such by final order of a court of competent jurisdiction); *provided* that any Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities (if any) under the Plan, and such reasonable reliance shall form a defense to any such claim, Cause of Action, or liability. Without limiting the generality of the foregoing, each Exculpated Party shall be entitled to and granted the protections of section 1125(e) of the Bankruptcy Code.

Releases:**Debtor Release.**

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after and subject to the occurrence of the Effective Date, the Debtors and the Estates shall release (the "**Debtor Release**") each Released Party, and each Released Party is deemed released by the Debtors and the Estates from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of any of the Debtors or the Estates, as applicable, whether known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, existing or hereinafter arising, in law, equity, or otherwise, that the Debtors or the Estates would have been legally entitled to assert in their own right, or on behalf of the holder of any Claim or Interest or other entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' liquidation, the chapter 11 cases, the purchase, sale, transfer of any security, asset, right, or interest of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtors and any Released Party, the restructuring of Claims and Interests prior to or in the chapter 11 cases, the Prepetition Credit Agreement, the negotiation, formulation, or preparation of the Plan or related agreements, instruments, or other documents, any other act or omission, transaction, agreement, event, or other occurrence taking place on and before the Petition Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; provided, that the foregoing Debtor Release shall not operate to waive or release any obligations of any party under the Plan, or any other document, instrument, or agreement executed to implement the Plan; and further provided that nothing herein shall act as a discharge of the Debtors.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) in the best interests of the Debtors and all Holders of Claims and Interests; (c) fair, equitable, and reasonable; (d) given and made after due notice and opportunity for hearing; and (e) a bar to any of the Debtors or the Estates asserting any Claim or Cause of Action released pursuant to the Debtor Release.

Third Party Release.

On and after and subject to the occurrence of the Effective Date, except as otherwise provided in the Plan, pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code and to the fullest extent permitted by applicable law, and for good and valuable consideration provided the Releasing Parties, shall release the Released Parties in each case on behalf of themselves and their respective successors, assigns, and representatives, the adequacy of which is hereby acknowledged and confirmed, each

Releasing Party will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full waiver and release to the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Releasing Parties) and their respective properties and assets from any and all claims, causes of action, and any other debts, obligations, rights, suits, damages, demands, judgments, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing as of the Effective Date or thereafter arising, in law or at equity, whether for tort, contract, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to the Debtors, the chapter 11 cases, the asset sales, the Complaint, the facts asserted in the Complaint, the pursuit of confirmation of the Plan, or the Plan, that the Releasing Parties would have been legally entitled to assert or that any third-party would have been legally entitled to assert for or on behalf of the Debtors or their bankruptcy estates against any of the Released Parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) any causes of action arising from a criminal act, actual fraud, gross negligence, or willful misconduct as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction, with the exception of those asserted in the Complaint, which shall be forever barred; and/or (ii) the rights of the Releasing Parties to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to a final order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule and without need for any notice to or any vote, consent, authorization, approval, ratification, or other action by any entity or other person or any director, stockholder, security holder, manager, member, or partner (or board thereof) of any entity. The court order approving the Plan will permanently enjoin the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to this release. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or entity under the Plan or any document, instrument, or agreement executed to implement the Plan.

Injunction.

In implementation of the Plan, except as otherwise expressly provided in the Confirmation Order or the Plan, and except in connection with the enforcement of the terms of the Plan or any documents provided for or contemplated in the Plan, all entities who have held, hold or may hold Claims against or Interests in the Debtors, the Liquidating Trust, or the Estates that arose prior to the Effective Date are permanently enjoined from: (a) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against the Debtors, the Estates, the Winddown Reserve, the Liquidating Trustee, the Liquidating Trust, the GUC Fund, the Liquidating Trust Reserves, or any of the Liquidating Trust Assets, with respect to any such Claim or Interest; (b) the enforcement, attachment, collection, or recovery by any manner or means,

directly or indirectly, of any judgment, award, decree, or order against the Debtors, the Estates, the Liquidating Trust, the GUC Fund, the Winddown Reserve, the Liquidating Trust Reserves or any of the Liquidating Trust Assets with respect to any such Claim or Interest; (c) creating, perfecting, or enforcing, directly or indirectly, any Lien or encumbrance of any kind against the Debtors, the Estates, the Liquidating Trustee or the Liquidating Trust, the GUC Fund, the Winddown Reserve, the Liquidating Trust Reserves or any of the Liquidating Trust Assets with respect to any such Claim or Interest; and (d) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Nothing contained in this Section of the Plan shall prohibit the holder of a timely filed Proof of Claim from litigating its right to seek to have such Claim declared an Allowed Claim and paid in accordance with the distribution provisions of the Plan, or enjoin or prohibit the interpretation or enforcement by the Claimant of any of the obligations of the Debtors or the Liquidating Trust under the Plan.

KEY PLAN DEFINITIONS

“Exculpated Parties” shall mean, each in their respective capacities as such, (a) the Debtors; (b) the Committee, (c) the Debtors’ chief restructuring officer and Novo Advisors, (d) the Independent Director, (e) with respect to each of the foregoing in clauses (a) through (d), each of their respective financial advisors, attorneys, accountants, investment bankers, consultants, agents, and other professionals, including the Professionals, who served in such capacities during these chapter 11 cases; and (f) with respect to each of the foregoing in clauses (a) through (e), such Person’s or Entity’s successors and assigns, solely to the extent such Person or Entity acted as a fiduciary of any such Person or Entity during these chapter 11 cases.

“Related Persons” means, with respect to any person or entity, such person’s or entity’s predecessors, successors, assigns and present and former affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, employers, shareholders, members (including ex officio members), general partners, limited partners, agents, managers, managing members, financial advisors, attorneys, accountants, investment bankers, investment advisors, investment managers, consultants, representatives, and other professionals, advisors, predecessors, successors, and assigns, in each case acting solely in such capacity at any time, and any person or entity claiming by or through any of them.

“Released Parties” means, collectively, (a) the Debtors; (b) Novo Advisors; (c) the Independent Director; (d) the Committee and the individual members thereof in their capacity as such; (e) the Prepetition Credit Agreement Lenders²; (f) the Individual Defendants; and (g) each of such Entities’ Related Persons except that with respect to the Debtors such Released Parties shall not include any individuals who served as officers or directors of the Debtors except for (i) employees of Novo Advisors, the Debtor’s chief restructuring officer, (ii) the Independent Director and (iii) the Individual Defendants.

² The release of the “Prepetition Credit Agreement Lenders” shall also include a release of any of the Prepetition Credit Agreement Lenders, including the Prepetition Agent, in any capacity with respect to the Debtors.

“Releasing Parties” means (a) each of the Debtors, in its individual capacity and as debtors-in-possession, (b) all holders of claims and equity interests who vote to accept or are deemed to accept the Plan and who do not affirmatively opt out of the releases provided by the Plan by checking the box on the applicable ballot or notice indicating that they opt not to grant the releases provided in the Plan, (c) all holders of claims who abstain from voting on the Plan and who do not affirmatively opt out of the releases provided by the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided in the Plan, (d) all holders of claims who vote to reject or are deemed to reject the Plan but do not affirmatively opt out of the releases provided in the Plan by checking the box on the applicable ballot or notice indicating that they opt not to grant the releases provided in the Plan, (e) the Debtors’ current and former directors, officers, and managers, solely in their capacities as such (f) the Committee and each of its members, solely in their capacities as such, (g) the Prepetition Credit Agreement Lenders, (h) Novo Advisors, (i) the Individual Defendants and (j) each current and former Related Person of each entity in clauses (a) through (i), solely to the extent such entity has the authority to bind such Related Party under applicable non-bankruptcy law.

DEADLINE FOR OBJECTIONS TO FINAL APPROVAL OF THE DISCLOSURES OR CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND PLAN

Objections, if any, to final approval of the Disclosures or confirmation of the Combined Disclosure Statement and Plan, including any supporting memoranda, must be in writing, be filed with the Clerk of the Court, United States Bankruptcy Court, District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801 together with proof of service **on or before August 20, 2024 at 4:00 p.m. (Prevailing Eastern Time)** (the “Objection Deadline”), and shall (a) state the name and address of the objecting party and the amount of its claim or the nature of its interest in the Debtor’s chapter 11 case; (b) state with particularity the provision or provisions of the Combined Disclosure Statement and Plan objected to and for any objection asserted, the legal and factual basis for such objections; and (c) be served on the following parties: (i) counsel for the Debtors, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, Wilmington, DE 19801, Attn: Laura Davis Jones (ljones@pszjlaw.com); (ii) counsel to the Committee, (a) Faegre Drinker Biddle & Reath LLP, 1177 Avenue of the Americas New York, New York 10036, Attn: Richard J. Bernard (richard.bernard@faegredrinker.com), and (b) Faegre Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410 Wilmington, Delaware 19801, Attn: Patrick A. Jackson (patrick.jackson@faegredrinker.com); (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware, 19801, Attn: Timothy J. Fox, Jr. (timothy.fox@usdoj.gov); and (iv) counsel to Prepetition Lenders: Hogan Lovells US LLP, 390 Madison Avenue, New York, NY 10017, Attn: Erin N. Brady (erin.brady@hoganlovells.com) and Chris Bryant (chris.bryant@hoganlovells.com).

**COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN AND
BALLOTS, IF APPLICABLE**

If you wish to receive copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the Voting Agent, Kroll Restructuring Administration LLC (“Kroll” or the “Voting Agent”) by (i) email at GigaMonsterInfo@ra.kroll.com (with “GigaMonster Networks Solicitation Inquiry” in the subject line), or (ii) telephone at (833) 238-7838 (U.S./Canada, toll-free) or +1 (646) 440-4753 (international) or (iii) by mail at GIGAMONSTER NETWORKS, LLC Ballot Processing Center, c/o Kroll Restructuring Administration LLC, 850 Third Avenue, Suite 412 Brooklyn, NY 11232.

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE VOTING AGENT AS SET FORTH ABOVE. IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE VOTING AGENT AS SET FORTH ABOVE.

IF YOU DO NOT RECEIVE A SOLICITATION PACKAGE (INCLUDING A BALLOT) AND YOU BELIEVE YOU ARE ENTITLED TO VOTE ON THE PLAN, PLEASE PROMPTLY CONTACT THE VOTING AGENT AS SET FORTH ABOVE TO OBTAIN A BALLOT AND RELATED SOLICITATION MATERIALS. THE DEBTORS RESERVE ALL RIGHTS WITH RESPECT TO ANY SUCH CAST BALLOTS PURSUANT TO THE SOLICITATION PROCEDURES.

Dated: July 18, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Laura Davis Jones

Laura Davis Jones (DE Bar No. 2436)

David M. Bertenthal (CA Bar No. 167624)

Timothy P. Cairns (DE Bar No. 4228)

919 North Market Street, 17th Floor

P.O. Box 8705

Wilmington, Delaware 19899-8705 (Courier 19801)

Telephone: 302-652-4100

Facsimile: 302-652-4400

email: ljones@pszjlaw.com

dbertenthal@pszjlaw.com

tcairns@pszjlaw.com

Counsel for Debtors and Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

GIGAMONSTER NETWORKS, LLC, *et al.*,¹
Debtors.

Chapter 11

Case No. 23-10051 (JKS)

(Jointly Administered)

**BALLOT TO ACCEPT OR REJECT COMBINED DISCLOSURE STATEMENT AND
PLAN OF GIGAMONSTER NETWORKS, LLC AND ITS AFFILIATED DEBTORS
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

CLASS 4 – Unsecured Claims

**THIS BALLOT IS TO BE USED BY OR ON BEHALF OF THE HOLDERS OF THE
CLASS 4 – UNSECURED CLAIMS. PLEASE READ AND FOLLOW THE
ENCLOSED INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS
BALLOT.**

**IF THE VOTING AGENT HAS NOT RECEIVED THIS BALLOT, INCLUDING THE
OPT-OUT ELECTION IN ITEM 2 OF THIS BALLOT, BY 5:00 P.M., PREVAILING
EASTERN TIME, ON AUGUST 20, 2024 (THE “VOTING DEADLINE”), UNLESS
EXTENDED BY THE DEBTORS IN THEIR DISCRETION SUBJECT TO
DISCLOSURE THEREOF IN THE VOTING REPORT, IT WILL NOT BE
COUNTED. FACSIMILE AND EMAIL BALLOTS WILL NOT BE ACCEPTED.**

This ballot (the “Ballot”) is submitted to you to solicit your vote to accept or reject the *Combined Disclosure Statement and Plan of Liquidation of GigaMonster Networks LLC and Its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 802] (including all exhibits thereto and as amended, supplemented or otherwise modified from time to time, the “Combined Disclosure Statement and Plan”) proposed by the above-captioned debtors (the “Debtors”). The disclosures (the “Disclosures”) contained in the Combined Disclosure Statement and Plan were approved on an interim conditional basis by order of the United States Bankruptcy Court for the District of Delaware. The Disclosures provide information to assist you in deciding how to vote your Ballot. You should review the Combined Disclosure Statement and Plan before you vote. You may wish to seek legal advice concerning the Combined Disclosure Statement and Plan and the classification and treatment of your claim(s) under the

¹ The Debtors, along with the last four (4) digits of each Debtor’s federal tax identification number are: GigaMonster Networks, LLC (2854); Gigasphere Holdings LLC (0250); GigaMonster, LLC (3014); Fibersphere Communications LLC (0163); and Fibersphere Communications of California LLC (5088). The Debtors’ business address is 350 Franklin Gateway, Suite 300, Marietta, GA 30067.



Combined Disclosure Statement and Plan. Capitalized terms not defined herein shall have the meaning ascribed to such term in the Combined Disclosure Statement and Plan.

The Combined Disclosure Statement and Plan provides information to assist you in deciding how to vote your Ballot. A copy of the Combined Disclosure Statement and Plan has been provided to you with this Ballot. You can obtain additional copies, free of charge, upon request to the Voting Agent, Kroll Restructuring Administration LLC (“Kroll” or the “Voting Agent”) via email at GigaMonsterInfo@ra.kroll.com (with “GigaMonster Solicitation Inquiry” in the subject line). The Combined Disclosure Statement and Plan, as well as all documents filed on the Court’s docket in this case, can be viewed and downloaded, free of charge, on the Debtors’ Chapter 11 case website maintained by the Voting Agent at <https://cases.ra.kroll.com/GigaMonster> and are also on file with the Clerk of the Bankruptcy Court for the District of Delaware, and may be reviewed during the regular hours of the Bankruptcy Court or online, for a fee, through the Bankruptcy Court’s internet website at <http://www.deb.uscourts.gov> (the required PACER password may be obtained at <https://pacer.uscourts.gov/>).

The Combined Disclosure Statement and Plan can be confirmed by the Bankruptcy Court, and therefore made binding on you, if it is accepted by the holders of at least one-half in number and two-thirds in amount of the claims in each of the classes who vote on the Combined Disclosure Statement and Plan and/or if the Combined Disclosure Statement and Plan otherwise satisfies applicable legal requirements.

This Ballot shall not constitute or be deemed a proof of claim or equity interest, an assertion of a claim or equity interest, or the allowance of a claim or equity interest.

If your Ballot is damaged or lost, or if you have any questions concerning voting procedures, please contact the Debtors’ voting agent, Kroll, by (i) email at GigaMonsterInfo@ra.kroll.com (with “GigaMonster Networks Solicitation Inquiry” in the subject line) or (ii) telephone at (833) 238-7838 (U.S./Canada, toll-free) or +1 (646) 440-4753 (international).

PLEASE READ THE ATTACHED VOTING INFORMATION AND INSTRUCTIONS BEFORE COMPLETING THIS BALLOT. PLEASE FOLLOW THE DIRECTIONS CONTAINED ON THE ENCLOSED BALLOT CAREFULLY

PLEASE COMPLETE ITEM 1. IF NEITHER THE “ACCEPT” NOR “REJECT” LINE IS CHECKED OR BOTH THE “ACCEPT” AND “REJECT” LINE IS CHECKED IN ITEM 1, THIS BALLOT WILL NOT BE COUNTED AS HAVING BEEN CAST. IF THIS BALLOT IS NOT SIGNED ON THE APPROPRIATE LINES BELOW, THIS BALLOT WILL NOT BE VALID OR COUNTED AS HAVING BEEN CAST.



Item 1. Class Vote. The undersigned, the holder of a **CLASS 4 – UNSECURED CLAIM** against the Debtors, hereby votes, in the amount set forth below, as follows (check one):

Accept the Combined Disclosure Statement and Plan Reject the Combined Disclosure Statement and Plan

Amount of Claim² \$ 600.00

Item 2. Third Party Releases Opt-Out.

Pursuant to the Combined Disclosure Statement and Plan, if you return a Ballot and vote to ACCEPT or REJECT the Plan, but do not elect to opt out of the third party release provision contained in Article X. F. of the Plan, you are automatically deemed to have agreed to give the releases in Article X. F. of the Plan. However, you may check the box below to opt out of, and therefore not give, the releases in Article X. F. of the Combined Disclosure Statement and Plan. Please note that checking the Opt-Out box will not affect the amount of your distribution under the Plan.

I hereby ELECT TO OPT OUT of giving the releases contained in Article X. F. of the Combined Disclosure Statement and Plan.

Article X. F. of the Combined Disclosure Statement and Plan provides as follows:

On and after and subject to the occurrence of the Effective Date, except as otherwise provided in the Plan, pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code and to the fullest extent permitted by applicable law, and for good and valuable consideration provided the Releasing Parties, shall release the Released Parties in each case on behalf of themselves and their respective successors, assigns, and representatives, the adequacy of which is hereby acknowledged and confirmed, each Releasing Party will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full waiver and release to the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Releasing Parties) and their respective properties and assets from any and all claims, causes of action, and any other debts, obligations, rights, suits, damages, demands, judgments, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing as of the Effective Date or thereafter arising, in law or at equity, whether for tort, contract, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to the Debtors, the chapter 11 cases, the asset sales, the Complaint, the facts asserted in the Complaint, the pursuit of confirmation of the Plan, or the Plan, that the Releasing Parties would have been legally entitled to assert or that any third-

² For voting purposes only, subject to tabulation rules.



party would have been legally entitled to assert for or on behalf of the Debtors or their bankruptcy estates against any of the Released Parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) any causes of action arising from a criminal act, actual fraud, gross negligence, or willful misconduct as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction, with the exception of those asserted in the Complaint, which shall be forever barred; and/or (ii) the rights of the Releasing Parties to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to a final order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule and without need for any notice to or any vote, consent, authorization, approval, ratification, or other action by any entity or other person or any director, stockholder, security holder, manager, member, or partner (or board thereof) of any entity. The court order approving the Plan will permanently enjoin the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to this release. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or entity under the Plan or any document, instrument, or agreement executed to implement the Plan.

“Related Persons” means, with respect to any person or entity, such person’s or entity’s predecessors, successors, assigns and present and former affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, employers, shareholders, members (including ex officio members), general partners, limited partners, agents, managers, managing members, financial advisors, attorneys, accountants, investment bankers, investment advisors, investment managers, consultants, representatives, and other professionals, advisors, predecessors, successors, and assigns, in each case acting solely in such capacity at any time, and any person or entity claiming by or through any of them.

“Released Parties” means, collectively, (a) the Debtors; (b) Novo Advisors; (c) the Independent Director; (d) the Committee and the individual members thereof in their capacity as such; (e) the Prepetition Credit Agreement Lenders³; (f) the Individual Defendants; and (g) each of such Entities’ Related Persons except that with respect to the Debtors such Released Parties shall not include any individuals who served as officers or directors of the Debtors except for (i) employees of Novo

³ The release of the “Prepetition Credit Agreement Lenders” shall also include a release of any of the Prepetition Credit Agreement Lenders, including the Prepetition Agent, in any capacity with respect to the Debtors.



Advisors, the Debtor’s chief restructuring officer, (ii) the Independent Director and (iii) the Individual Defendants.

“Releasing Parties” means (a) each of the Debtors, in its individual capacity and as debtors-in-possession, (b) all holders of claims and equity interests who vote to accept or are deemed to accept the Plan and who do not affirmatively opt out of the releases provided by the Plan by checking the box on the applicable ballot or notice indicating that they opt not to grant the releases provided in the Plan, (c) all holders of claims who abstain from voting on the Plan and who do not affirmatively opt out of the releases provided by the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided in the Plan, (d) all holders of claims who vote to reject or are deemed to reject the Plan but do not affirmatively opt out of the releases provided in the Plan by checking the box on the applicable ballot or notice indicating that they opt not to grant the releases provided in the Plan, (e) the Debtors’ current and former directors, officers, and managers, solely in their capacities as such (f) the Committee and each of its members, solely in their capacities as such, (g) the Prepetition Credit Agreement Lenders, (h) Novo Advisors, (i) the Individual Defendants and (j) each current and former Related Person of each entity in clauses (a) through (i), solely to the extent such entity has the authority to bind such Related Party under applicable non-bankruptcy law.

Item 3. Acknowledgements. By signing this Ballot, the undersigned acknowledges receipt of the Combined Disclosure Statement and Plan and the other applicable solicitation materials and certifies that the undersigned is the claimant or has the power and authority to vote to accept or reject the Combined Disclosure Statement and Plan on behalf of the claimant and make the other elections set forth in this Ballot. The undersigned understands that, if this Ballot is validly executed but does not indicate either acceptance or rejection of the Combined Disclosure Statement and Plan, or indicates both an acceptance and rejection of the Combined Disclosure Statement and Plan this Ballot will not be counted.

FLORIDA PUBLIC SERVICE
COMMISSION

Name of Creditor

Email Address

Signature

Date Completed

If by Authorized Agent, Name and Title

Street Address

Telephone Number



231005101618340

**VOTING INFORMATION AND INSTRUCTIONS FOR
COMPLETING THE BALLOT**

1. On Item 1 of the Ballot, please indicate acceptance or rejection of the Plan.
2. On Item 2 of the Ballot, please check the box if you are opting-out of giving the releases contained in Article X. F. of the Combined Disclosure Statement and Plan.
3. **PLEASE COMPLETE, SIGN, AND DATE THIS BALLOT AND RETURN IT PROMPTLY BY ONLY ONE OF THE FOLLOWING METHODS:**

IN THE ENCLOSED REPLY ENVELOPE PROVIDED, OR VIA FIRST CLASS MAIL, OVERNIGHT COURIER, OR HAND DELIVERY, OR BY ELECTRONIC ONLINE SUBMISSION.

If by First Class Mail, Overnight Courier, or Hand Delivery:

**GIGAMONSTER NETWORKS, LLC Ballot Processing Center
c/o Kroll Restructuring Administration LLC
850 Third Avenue, Suite 412
Brooklyn, NY 11232**

(To arrange hand delivery of your Ballot, please email the Voting Agent at GigaMonsterBallots@ra.kroll.com (with “GigaMonster Networks Ballot Delivery” in the subject line) at least 24 hours prior to your arrival at the Kroll address above and provide the anticipated date and time of delivery)

- **By electronic online submission:**
- TO SUBMIT YOUR CUSTOMIZED ELECTRONIC BALLOT ONLINE, PLEASE VISIT THE DEBTORS’ BANKRUPTCY WEBSITE: [HTTPS://CASES.RA.KROLL.COM/GIGAMONSTER//](https://cases.ra.kroll.com/gigamonster/), CLICK ON THE “SUBMIT E-BALLOT” SECTION OF THE WEBSITE, AND FOLLOW ONLINE SUBMISSION INSTRUCTIONS SET FORTH IN YOUR BALLOT AND ON THE WEBSITE
- **IMPORTANT NOTE: You will need the following E-Ballot ID# to retrieve and submit your customized electronic Ballot:**
- **Unique E-Ballot ID#:** GBUD-UWQG-9H4F-6MPH
- The E-Ballot Portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email, or other means of electronic transmission will not be counted.



- Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your Ballot. Please complete and submit a Ballot for each E-Ballot ID# you receive, as applicable.
- **Holders who cast a Ballot using the Voting Agent's online portal should NOT also submit a paper Ballot.**

1. **Ballots must be received by the Voting Agent by 5:00 p.m., Prevailing Eastern Time, on August 20, 2024 (the “Voting Deadline”).** If a Ballot is received after the Voting Deadline, it will not be counted unless the Voting Deadline is extended by the Debtors in their discretion subject to disclosure thereof in the Voting Report. An envelope addressed to the Voting Agent is enclosed for your convenience. ***Ballots submitted by facsimile or email will not be accepted.***

2. Please sign and date your Ballot as required in Item 3. Your signature is required in order for your Ballot to be counted.

3. If your claim has not been previously allowed by order of the Bankruptcy Court, your claim will be deemed to be temporarily allowed, solely for purposes of voting on the Combined Disclosure Statement and Plan, unless there is an objection to your claim pending. The temporary allowance of your claim for voting purposes does not constitute an allowance of your claim for purposes of distribution under the Combined Disclosure Statement and Plan and is without prejudice to the rights of the Debtors, or any other party in interest, in any other context (e.g., the right to contest the amount or validity of any claim for purposes of allowance under the Combined Disclosure Statement and Plan). If your claim is subject to an objection, your Ballot will not be counted unless the Court temporarily allows your claim for purposes of voting to accept or reject the Combined Disclosure Statement and Plan. In order for a claim subject to a timely-filed objection to be temporarily allowed for voting purposes only, you are required to file a motion under Bankruptcy Rule 3018 with the Bankruptcy Court seeking such relief by no later than **August 13, 2024 at 4:00 p.m. (Prevailing Eastern Time)**. Ballots of holders of claims that are scheduled as contingent, unliquidated, or disputed (excluding such scheduled disputed, contingent, or unliquidated claims that have been paid, allowed by an Order of the Court or superseded by a timely Filed Proof of Claim) will not be counted unless the Court temporarily allows such claim for purposes of voting to accept or reject the Combined Disclosure Statement and Plan.

4. The following voting procedures apply to your Ballot:

- a. If an objection has not been filed to a Claim, the amount of such Claim for voting purposes shall be the non-contingent, liquidated and undisputed Claim or Interest amount contained on a timely filed Proof of Claim or, if no Proof of Claim was timely filed, the non-contingent, liquidated and undisputed amount of such Claim listed in the Schedules;
- b. If a Claim is listed in the Schedules as contingent, unliquidated, or disputed and a proof of claim was not (i) filed on or before the Voting Record Date; or (ii) deemed timely filed by an order of the Court prior to the Voting Deadline;



such Claim shall be disallowed for voting purposes; provided, however, no Claim shall be disallowed for voting purposes to the extent such Claim is the subject of a Bankruptcy Court order providing that no proof of claim needs to be filed with respect to such Claim;

- c. If a claim for which a proof of claim has been timely filed for a wholly contingent, unliquidated, unknown or undetermined amounts, such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00;
- d. Proofs of claim filed for \$0.00 are not entitled to vote;
- e. In the event a Claim is transferred after the transferor has executed and submitted a Ballot to the Voting Agent, the transferee of such Claim shall be bound by any such vote (and the consequences thereof) made by the Holder of such transferred Claim as of the Voting Record Date, provided that nothing herein shall be deemed to be a consent by the Debtors to the transfer of any claim;
- f. Notwithstanding anything to the contrary contained herein, any Creditor who has filed or purchased one or more duplicate Claims within the same voting Class shall be provided with only one Solicitation Package and one Ballot for voting a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims;
- g. Except to the extent the Debtors otherwise determine, no party may change its vote after its Ballot has been delivered to the Voting Agent unless the Holder of the Claim or Interest files a motion pursuant to Bankruptcy Rule 3018; *provided that*, notwithstanding the foregoing, subparagraph 'n' below shall govern the submission of multiple Ballots prior to the Voting Deadline;
- h. Claims shall not be split for purposes of voting; thus, each Creditor must vote the full amount of its Claim(s) within each class to either accept or reject the Combined Disclosure Statement and Plan. If a creditor attempts to split such vote on its Ballot, such Ballot will not be counted for voting purposes;
- i. For purposes of the numerosity requirement of § 1126(c), separate Claims held by a single Creditor in a particular Class shall be aggregated as if such Creditor held one Claim against the Debtors in such Class, and the votes related to such Claims shall be treated as a single vote to accept or reject the Plan;
- j. Votes cast pursuant to a Ballot that is not signed shall not be counted, unless the Court orders otherwise;¹

¹ For the avoidance of doubt, Ballots submitted online shall be deemed to contain an original signature.



- k. The method of delivery of Ballots to be sent to the Voting Agent is at the election and risk of each Holder of a Claim, but such delivery will be deemed made only when the, executed Ballot is actually received by the Voting Agent;
- l. Delivery of the executed Ballot to the Voting Agent on or before the Voting Deadline is required. Delivery of a Ballot by facsimile, email, or any other electronic means, except as expressly provided herein, will not be accepted unless otherwise ordered by the Court;
- m. No Ballot sent to the Debtors, or the Debtors' financial or legal advisors, shall be accepted or counted;
- n. If multiple Ballots are received from or on behalf of an individual holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last properly completed Ballot timely received will be deemed to reflect the voter's intent and to supersede and revoke any prior Ballot;
- o. If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity, such person should indicate such capacity when signing and, if requested by the Debtors, must submit proper evidence, satisfactory to the Debtors, of such person's authority to so act in such capacity;
- p. After the Voting Deadline, no valid Ballot may be withdrawn or modified without the express written consent of the Debtors;
- q. The Debtors, subject to contrary order of the Court, may waive any defect in any Ballot at any time, either before or after the close of voting, and without notice. Except as otherwise provided herein, the Debtors may, in their discretion, reject any such defective Ballot as invalid and, therefore, not count it in connection with confirmation of the Combined Disclosure Statement and Plan;
- r. To assist in the solicitation process, the Voting Agent is authorized to contact parties that submit incomplete or otherwise deficient Ballots to make a reasonable effort to cure such deficiencies, provided that, neither the Debtors, Voting Agent, nor any other person or entity will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any such party incur any liability for failure to provide such notification. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted (except as set forth in (p) above);
- s. Unless otherwise ordered by the Court, all questions as to the validity, eligibility (including time of receipt) and revocation or withdrawal of Ballots



will be determined by the Debtors, which determination shall be final and binding;

- t. If designation of a Claim is requested under § 1126(e), any vote to accept or reject the Combined Disclosure Statement and Plan cast with respect to such Claim will not be counted for purposes of determining whether the Combined Disclosure Statement and Plan has been accepted or rejected, unless the Court orders otherwise;
- u. Unless waived or as otherwise ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured by the Voting Deadline, and unless otherwise ordered by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not been cured or waived by the Voting Deadline) will not be counted;
- v. Neither the Debtors nor any other person or entity will be under any duty to provide notification of defects or irregularities with respect to the delivery of Ballots, nor will any of them incur any liability for failure to provide such notification;
- w. No fees, commissions, or other remuneration will be payable to any broker, dealer, or other person for soliciting Ballots to accept the Combined Disclosure Statement and Plan;
- x. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Combined Disclosure Statement and Plan and/or to opt out of the release; and
- y. The Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of a Claim or Equity Interest.

7. NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT OR OTHER MATERIALS AUTHORIZED BY THE BANKRUPTCY COURT.

PLEASE RETURN YOUR BALLOT PROMPTLY.

IF THE VOTING AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS ON AUGUST 20, 2024 AT 5:00 P.M., PREVAILING EASTERN TIME, THE VOTE TRANSMITTED HEREBY WILL NOT BE COUNTED, UNLESS THE VOTING DEADLINE IS EXTENDED.



Voter ID: 40125



231005101618340

GigaMonster 3320 SRF 80733 ADRID: 27417500 Pack ID: 4-125
FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD.
TALLAHASSEE FL 32399-0850



231005101618340

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

In re:

GIGAMONSTER NETWORKS, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 23-10051 (JKS)

(Jointly Administered)

ENCLOSED WITH YOUR SOLICITATION PACKAGE YOU WILL FIND A YELLOW FLASH DRIVE CONTAINING THE FOLLOWING DOCUMENTS:

- 1. COMBINED DISCLOSURE STATEMENT AND JOINT PLAN OF LIQUIDATION OF GIGAMONSTER NETWORKS LLC AND ITS AFFILIATED DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE (FULL DOCUMENT WITH ANNEXES AND EXHIBITS FOR EASE OF PRINTING)**

- 2. ORDER (I) GRANTING CONDITIONAL APPROVAL OF THE ADEQUACY OF DISCLOSURES IN THE COMBINED DISCLOSURE STATEMENT AND PLAN; (II) SCHEDULING A COMBINED CONFIRMATION HEARING AND SETTING DEADLINES RELATED THERETO; (III) APPROVING SOLICITATION PACKAGES AND PROCEDURES; (IV) APPROVING THE FORMS OF BALLOTS; AND (V) GRANTING RELATED RELIEF (STANDALONE DOCUMENT WITHOUT ANNEXES AND EXHIBITS)**

¹ The Debtors, along with the last four (4) digits of each Debtor's federal tax identification number are: GigaMonster Networks, LLC (2854); Gigasphere Holdings LLC (0250); GigaMonster, LLC (3014); Fibersphere Communications LLC (0163); and Fibersphere Communications of California LLC (5088). The Debtors' business address is 350 Franklin Gateway, Suite 300, Marietta, GA 30067.