



“Company”), securities analysts’ reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

### **NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of a class consisting of all persons other than defendants who purchased the common stock of Worldspace pursuant to the Company’s initial public offering (“IPO”) that commenced on August 4, 2005, seeking to recover damages caused by defendants’ violations of federal securities laws and pursue remedies under the Securities Act of 1933 (the “Securities Act”).

### **JURISDICTION AND VENUE**

2. The claims asserted herein arise under and pursuant to Sections 11, 12, & 15 of the Securities Act (15 U.S.C. §§ 77K and 77(o)).

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. §77v(a), and 28 U.S.C. §1391(b).

4. Venue is proper in this Judicial District pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and 28 U.S.C. § 1391(b).

5. In connection with the acts, conduct and other wrongs alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

### **PARTIES**

6. Plaintiff \_\_\_\_\_, as set forth in the accompanying certification, incorporated by reference herein, purchased Worldspace securities pursuant to the IPO and was damaged thereby.

7. Defendant Worldspace is a Delaware Corporation, within its principal executive offices located in Silver Spring, MD. The Company, along with its various subsidiaries, purports to develop, design, construct, deploy and finance satellite-based radio and data broadcasting service primarily in China and in India. The Company, through a subscription-based model, offers various international, national and regional programming services—including music, news and entertainment.

8. Defendant UBS Securities LLC (“UBS”) was an underwriter and the sole book-running manager of the Worldspace IPO. UBS is a licensed NASD broker-dealer. UBS’ parent, UBS AG, maintains its corporate headquarters in New York, New York.

9. Defendant Cowen & Co., LLC, f/k/a/ “SG Cowen & Col., LLC” (collectively “Cowen”) was an underwriter of the Worldspace IPO. Cowen is headquartered in New York, New York. Cowen provides investment banking and related services.

10. Defendants Noah A. Samara (“Samara”) is, and was at all relevant times hereto, the Company’s Chairman and CEO.

11. Defendant Sridhar Ganesan (“Ganesan”) is, and was at all relevant times hereto, the Company’s Executive Vice President and CFO.

12. Samara and Ganesan are collectively referred to hereinafter as the “Individual Defendants.”

### **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

13. Plaintiff brings this action as a class action on behalf of himself and on behalf of all purchasers of the common stock of the Company issued pursuant to and/or traceable to the Company's IPO, pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class. Excluded from the Class are defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

14. The members of the Class are so numerous that joinder of all members is impracticable. Approximately 11.8 million shares of the Company's common stock were sold in the IPO. The precise number of the Class members is unknown to Plaintiff at this time but it is believed to be in the thousands. Members of the Class may be identified from records maintained by Worldspace or its transfer agent and may be notified of the pendency of this action by mail, using a form of notice customarily used in securities class actions.

15. Plaintiff's claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is complained of herein.

16. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

17. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the provisions of the Securities Act were violated by defendants' acts as alleged herein;

(b) whether documents, including the Registration Statement and Prospectus, press releases, and public statements issued by defendants to the investing public committed and/or misrepresented material facts about the Company and its business; and

(c) the extent the members of the Class have sustained damages and the proper measure of damages.

18. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **SUBSTANTIVE ALLEGATIONS**

19. Worldspace is in the business of designing, developing, constructing, deploying, and financing satellite-base radio and data broadcasting services through a subscription based model primarily in China, India, Africa, the Middle East, and Western Europe.

20. In order to receive the Company's satellite broadcast service, a Worldspace subscriber must purchase a receiver that will process, decode and descramble the encrypted signals Worldspace broadcasts to its subscribers. Each receiver is individually addressable via a unique identifier that can be used to unlock specially coded audio or multimedia signals used to transmit free, subscription and/or premium services. A "passcode", valid for varying periods of time depending upon the length of the subscription purchased and paid for, is provided to a subscriber and entered into the receiver. Passcodes are re-validated on a quarterly basis. Upon subscription renewal, a new passcode is provided and similarly entered into the receiver.

21. Worldspace accessed the public equity markets through an IPO of the Company's common stock on August 4, 2005 (the "IPO"). The IPO was accomplished pursuant to the Registration Statement and Prospectus filed April 13, 2005 with the SEC (the "Registration Statement" or "Prospectus"), and 11,868,400 shares of the Company's common stock were offered and sold to Plaintiff and other members of the investing public at a price of \$21.00 per share.

22. The Registration Statement was signed by, among other, defendants Samara and Ganesan, and unambiguously stated the importance of the Company's subscriber count: "We believe that the most important factor for our success will be the successful acquisition and retention of paying subscribers". Additionally, with respect to the Company's current subscriber count, the Registration Statement noted that "[a]s of June 30, 2005, we had more than 63,000 paying subscribers, including more than 27,000 in India".

23. The Registration Statement further indicated that the Company's continued viability was critically dependent on the acquisition and retention of a sufficiently large subscriber base. The Registration Statement states in relevant part:

We expect to fund marketing and distribution costs from the proceeds of this offering as we increase the number of subscribers to our service level sufficient to generate a stream of cash flows to cover these and other operating costs ... our ultimate profitability and the timing and extent of any need for additional capital resources are materially dependent on the ability to generate our revenue through substantial increases in subscribers, among other factors.

\* \* \* \*

#### Revenue

We expect that subscription fees will be the main source of revenue for the Company in the future, followed by revenue from equipment sales and from the provision of government services. Although we cannot expect revenue from equipment sales to increase as we fully roll our subscription services, initially in India and subsequently in China, we expect that equipment sales as a percentage of total revenue will decline, since the percentage increase in revenue from equipment sales is anticipated

to be much less than the percentage increase in revenue from subscription sales. We do not expect revenue from leasing capacity to constitute a significant portion of our future revenue as we are intending to focus primarily on subscriber acquisition and will utilize our capacity to broadcast content tailored to consumer demand in the different markets within our broadcast coverage area.

24. The discussion of the Company's subscriber count in the Registration Statement concerning the Company's operations and prospects were materially false and misleading because the Company's subscriber count was artificially inflated by defendants' failure to timely remove from the subscriber numbers those who had purchased a three-month, pre-paid subscription to the Company's "access control system" pursuant to a promotional offer (the "1999 Promotion"), but who declined to continue, or to pay for, a subscription following the end of the promotional period. Rather than report these expired subscriptions as "churned", defendants continued to include these expired subscriptions in the Company's subscriber count for an additional 90 days following the expiration of the initial three-month promotional period.

25. On September 7, 2005, the Company issued a press release and later filed a corresponding Form 8-K with the SEC entitled "Worldspace Announces Second Quarter 2005 Results". The press release states in relevant part:

WASHINGTON, DC, September 7, 2005 — WorldSpace, Inc. (NASDAQ: WRSP), one of the world leaders in satellite-based digital radio services, today reported its financial and operating results for the second quarter ended June 30, 2005.

During the second quarter 2005, WorldSpace continued the rollout of its service in key cities in India, including Bangalore, Chennai and Hyderabad. As of June 30, 2005, WorldSpace had acquired 63,930 subscribers. This represented net subscriber additions of 11,427 for the quarter, an increase of 93 percent over the 5,936 subscribers added in second quarter of 2004.

For the second quarter of 2005, WorldSpace reported quarterly revenues of approximately \$2.3 million, representing a 21 percent increase compared with revenues of approximately \$1.9 million for the second quarter of 2004. Subscriber revenue increased 390 percent to approximately \$0.8 million for the second quarter of 2005

compared with subscriber revenue of approximately \$0.2 million for the second quarter of 2004.

WorldSpace recorded a net loss for the second quarter 2005 of \$22.0 million or \$0.95 per share compared with a net loss of \$52.3 million or \$9.04 per share for the second quarter of 2004. WorldSpace had an EBITDA (earnings before interest income, interest expense, income taxes, depreciation and amortization) of \$12.0 million for the second quarter 2005, compared with \$10.0 million for the second quarter 2004.

Said Noah Samara, Chairman and Chief Executive Officer of WorldSpace, “The second quarter of 2005 was a critical time for WorldSpace as we prepared for our initial public offering, ramped up our marketing campaign in India and continued planning for the roll-out of services in Western Europe and China – markets where we enjoy a first-mover advantage. We also continued to form strategic partnerships and add new customer-driven content to our satellite radio offerings, especially in India, an under

### **Accelerated Marketing Campaign and Expanded Presence in India**

WorldSpace ramped up its marketing campaign in 2005 after receiving funding at the end of last year. During the second quarter of 2005, its blended Cost per Gross Addition (CPGA) was \$103, compared with \$107 CPGA during the second quarter of 2004. Blended CPGA includes the fully-loaded cost to acquire each new subscriber in India and in our other markets such as western Europe, Africa and the Middle East, and includes Subscriber Acquisition Cost (SAC) and other marketing expenses such as advertising and point of sale materials. India CPGA during the three-month period ended June 30, 2005 was \$175, compared with \$94 for the second quarter of 2004, representing a significant ramp-up in marketing activities this year. WorldSpace’s blended SAC for the second quarter of 2005 was \$2.04 per subscriber, while the India SAC for the three-month period was \$11.96 per subscriber

### **Improved Liquidity**

WorldSpace had total cash and cash equivalents of \$83.3 million as of June 30, 2005.

Since then, WorldSpace has raised an additional net amount of approximately \$244 million through an Initial Public Offering (IPO) and an investment by XM Satellite Radio Holdings, Inc. (XM). On August 9, 2005, WorldSpace completed its initial public offering of its Class A Common Stock of 11.5 million shares, raising a total of approximately \$222 million in net proceeds for WorldSpace. On July 18, 2005, WorldSpace issued to XM 1,562,500 shares of Class A Common Stock for an aggregate purchase price of \$25 million. In connection with this transaction, WorldSpace entered into a global satellite radio cooperation agreement with XM pursuant to which the companies agreed to cooperate on receiver technology, terrestrial repeater technology, original equipment manufacturer (OEM) and third-party distribution relationships,

content opportunities and new applications and services. In addition, Gary Parsons, the Chairman of the board of directors of XM, was elected to the WorldSpace board of directors. In connection with this transaction, WorldSpace also granted to XM a performance-based warrant to purchase 1,785,714 shares of Class A Common Stock.

26. On September 8, 2005, the Company filed its quarterly report for the second quarter ended June 30, 2005 with the SEC on Form 10-Q. The 10-Q reaffirmed the Company's previously announced financial results. The 10-Q was signed and certified by each of Samara and Ganesan pursuant to Sarbanes-Oxley Act of 2002 ("SOX"). The certifications state in relevant part:

27. On November 7, 2005, the Company issued a press release and later filed a corresponding Form 8-K with the SEC entitled "WorldSpace Announces Third Quarter 2005 Results; WorldSpace Finishes The Quarter with More Than 75,000 Subscribers, Grows Subscriber Revenue 232%". The press release states in relevant part:

SILVER SPRING, MD, November 7, 2005 — WorldSpace, Inc. (NASDAQ: WRSP), one of the world leaders in satellite-based digital radio services, today reported its financial and operating results for the third quarter ended September 30, 2005.

WorldSpace finished the quarter with 75,071 subscribers. The Company added 11,141 subscribers in the third quarter this year, an increase of 78 percent over the 6,253 subscribers added in third quarter of 2004. In India, the Company has 35,670 subscribers at the end of the third quarter, of which 7,737 were added between July and September, an increase of 114% over the 3,616 added in the third quarter of 2004. In addition, WorldSpace added over 12,000 subscribers in India in October 2005 as part of its holiday marketing campaign.

At the end of the third quarter, WorldSpace distributed its satellite radio services to six cities in India, consisting of Mumbai, Delhi, Bangalore, Chennai, Hyderabad and Kochi. In addition services in Pune and Ahmedabad were launched in October. WorldSpace's market distribution is now available to a population of more than 50 million, including nearly 29 million households in the segment of the population that WorldSpace is targeting.

"During the third quarter we have made operational progress that puts us well on the path of delivering strong subscriber growth. This growth is clearly visible in our successful October holiday marketing campaign," said Noah Samara, WorldSpace's Chairman and

CEO. “We have significantly increased our marketing and retail presence in key cities in India, expanded our content offering to further enhance an attractive value proposition to the consumer and improved our distribution. We continued to make progress in our business development activities in Europe and in addition in October, we obtained terrestrial repeater licenses in Dubai and Bahrain, the first terrestrial repeater licenses for mobile satellite radio outside of North America, and rolled out new marketing initiatives to the US military and government personnel stationed in our coverage area.”

### **Quarterly Revenue Accelerates**

For the third quarter of 2005, WorldSpace reported quarterly revenues of approximately \$2.4 million, representing a 51 percent increase compared with revenues of approximately \$1.6 million for the third quarter of 2004. Subscriber revenue increased 232 percent to approximately \$1.0 million for the third quarter of 2005 compared with subscriber revenue of approximately \$0.3 million for the third quarter of 2004.

### **Net Loss Narrows**

WorldSpace recorded a net loss for the third quarter 2005 of \$15.4 million or \$0.48 per share, compared with a net loss of \$57.3 million or \$9.90 per share for the third quarter of 2004, a period that included \$30.6 million in interest charges. WorldSpace had an EBITDA (earnings before interest income, interest expense, income taxes, depreciation and amortization) loss of \$29.1 million for the third quarter of 2005, compared with an EBITDA loss of \$12.1 million for the third quarter of 2004.

### **Accelerated Marketing Campaign**

WorldSpace continued to ramp up its marketing campaign during the third quarter of 2005. During the third quarter of 2005, blended Cost Per Gross Addition (CPGA) was \$407, compared with \$128 CPGA during the third quarter of 2004. Blended CPGA includes fully-loaded cost to acquire each new subscriber in India and in its other markets and includes Subscriber Acquisition Costs and other marketing expenses such as advertising and point of sale materials. India CPGA during the three-month period ended September 30, 2005 was \$508, compared with \$97 for the third quarter of 2004, representing a significant ramp-up in marketing activities this year. WorldSpace’s blended SAC for the third quarter of 2005 was \$27 per subscriber, while the India SAC for the three-month period was \$38 per subscriber. In the third quarter 2005, WorldSpace spent \$4.9 million on advertising and marketing expenses, of which \$4.1 million was spent in India.

### **Improved Liquidity from IPO**

WorldSpace had total cash, cash equivalents and marketable securities of \$296.5 million as of September 30, 2005. This improved liquidity position resulted primarily from additional financing of approximately \$244 million raised during the third quarter of 2005.

On August 9, 2005, WorldSpace completed its initial public offering (IPO) of its Class A common stock of 11.5 million shares, raising a total of approximately \$221 million in net proceeds for WorldSpace.

On July 18, 2005, WorldSpace issued to XM Satellite Radio Holdings Inc. 1,562,500 shares of Class A Common Stock for an aggregate purchase price of \$25 million. In connection with this transaction, WorldSpace entered into a global satellite radio cooperation agreement with XM pursuant to which both entities each agreed to cooperate with one another on receiver technology, terrestrial repeater technology, OEM and third party distribution relationships, content opportunities and new applications and services. In addition, Gary Parsons, Chairman of the Board of Directors of XM, was elected to the WorldSpace board of directors. In connection with the transaction, WorldSpace also granted to XM a performance-based warrant to purchase 1,785,714 shares of Class A Common Stock.

28. On November 9, 2005, the Company filed with the SEC its Q3 2005 results ended September 30, 2005 on Form 10-Q. The 10-Q reaffirmed the Company's previously announced financial results. The 10-Q was also certified by each of Samara and Ganesan pursuant to SOX.

29. On December 7, 2005, the Company issued a press release and later filed a corresponding Form 8-K with the SEC entitled "WorldSpace Satellite Radio Reaches 100,000 Subscribers; Subscribers Embrace WorldSpace's Exclusive Commercial-Free-Content". The press release states in relevant part:

SILVER SPRING, MD, November 7, 2005 — WorldSpace, Inc. (NASDAQ: WRSP), one of the world leaders in satellite-based digital radio services, today reported its financial and operating results for the third quarter ended September 30, 2005.

WorldSpace finished the quarter with 75,071 subscribers. The Company added 11,141 subscribers in the third quarter this year, an increase of 78 percent over the 6,253 subscribers added in third quarter of 2004. In India, the Company has 35,670 subscribers at the end of the third quarter, of which 7,737 were added between July and September, an increase of 114% over the 3,616 added in the third quarter of 2004. In addition,

WorldSpace added over 12,000 subscribers in India in October 2005 as part of its holiday marketing campaign.

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“During the third quarter we have made operational progress that puts us well on the path of delivering strong subscriber growth. This growth is clearly visible in our successful October holiday marketing campaign,” said Noah Samara, WorldSpace's Chairman and CEO. “We have significantly increased our marketing and retail presence in key cities in India, expanded our content offering to further enhance an attractive value proposition to the consumer and improved our distribution. We continued to make progress in our business development activities in Europe and in addition in October, we obtained terrestrial repeater licenses in Dubai and Bahrain, the first terrestrial repeater licenses for mobile satellite radio outside of North America, and rolled out new marketing initiatives to the US military and government personnel stationed in our coverage area.”

### **Quarterly Revenue Accelerates**

For the third quarter of 2005, WorldSpace reported quarterly revenues of approximately \$2.4 million, representing a 51 percent increase compared with revenues of approximately \$1.6 million for the third quarter of 2004. Subscriber revenue increased 232 percent to approximately \$1.0 million for the third quarter of 2005 compared with subscriber revenue of approximately \$0.3 million for the third quarter of 2004.

### **Net Loss Narrows**

WorldSpace recorded a net loss for the third quarter 2005 of \$15.4 million or \$0.48 per share, compared with a net loss of \$57.3 million or \$9.90 per share for the third quarter of 2004, a period that included \$30.6 million in interest charges. WorldSpace had an EBITDA (earnings before interest income, interest expense, income taxes, depreciation and amortization) loss of \$29.1 million for the third quarter of 2005, compared with an EBITDA loss of \$12.1 million for the third quarter of 2004.

### **Accelerated Marketing Campaign**

WorldSpace continued to ramp up its marketing campaign during the third quarter of 2005. During the third quarter of 2005, blended Cost Per Gross Addition (CPGA) was \$407, compared with \$128 CPGA during the third quarter of 2004. Blended CPGA includes fully-loaded cost to acquire each new subscriber in India and in its other markets

and includes Subscriber Acquisition Costs and other marketing expenses such as advertising and point of sale materials. India CPGA during the three-month period ended September 30, 2005 was \$508, compared with \$97 for the third quarter of 2004, representing a significant ramp-up in marketing activities this year. WorldSpace's blended SAC for the third quarter of 2005 was \$27 per subscriber, while the India SAC for the three-month period was \$38 per subscriber. In the third quarter 2005, WorldSpace spent \$4.9 million on advertising and marketing expenses, of which \$4.1 million was spent in India.

### **Improved Liquidity from IPO**

WorldSpace had total cash, cash equivalents and marketable securities of \$296.5 million as of September 30, 2005. This improved liquidity position resulted primarily from additional financing of approximately \$244 million raised during the third quarter of 2005.

On August 9, 2005, WorldSpace completed its initial public offering (IPO) of its Class A common stock of 11.5 million shares, raising a total of approximately \$221 million in net proceeds for WorldSpace.

On July 18, 2005, WorldSpace issued to XM Satellite Radio Holdings Inc. 1,562,500 shares of Class A Common Stock for an aggregate purchase price of \$25 million. In connection with this transaction, WorldSpace entered into a global satellite radio cooperation agreement with XM pursuant to which both entities each agreed to cooperate with one another on receiver technology, terrestrial repeater technology, OEM and third party distribution relationships, content opportunities and new applications and services. In addition, Gary Parsons, Chairman of the Board of Directors of XM, was elected to the WorldSpace board of directors. In connection with the transaction, WorldSpace also granted to XM a performance-based warrant to purchase 1,785,714 shares of Class A Common Stock.

30. On January 25, 2006, the Company issued a press release and later filed a corresponding Form 8-K entitled "WorldSpace Adds a Record 40,000 subscribers in the Fourth Quarter 2005". The press release states in relevant part:

SILVER SPRING, Md., Jan. 25 /PRNewswire-FirstCall/ — WORLDSPACE(R), Inc., (Nasdaq: WRSP), one of the world leaders in satellite-based digital radio services, today announced that it finished 2005 with more than 115,000 subscribers globally. During the fourth quarter, WORLDSPACE added more than 40,000 net new subscribers, increasing its subscriber base by more than 50% in the fourth quarter alone.

“The growth rate demonstrates that we are delivering on our plan to drive subscriber growth in India. The value proposition of our offering is being validated by growing the demand for our service,” said Noah Samara, chairman and CEO of WORLDSPACE. “We look forward to continue building on our success in 2005 and we are extremely excited about our plans to expand our service throughout India and other focus markets.”

At the end of 2005, WORLDSPACE was offering the service in nine cities in India, including Mumbai, New Delhi, Bangalore, Chennai, Hyderabad, Kochi, Pune, Ahmedabad, and Chandigarh, covering a population of approximately 29 million through 650 retail locations and 550 direct sales force agents.

WORLDSPACE anticipates releasing its complete results for the fourth quarter of 2005 on March 16, 2006. Additional information on the timing of the release and the conference call will be announced shortly.

31. On March 16, 2006 the Company issued a press release and later filed a corresponding Form 8-K with the SEC entitled “WorldSpace Announced Fourth Quarter 2005 Results; WorldSpace Finishes 2005 With More Than 115,000 Subscribers Worldwide, Adds Over 40,000 New Customers in the Fourth Quarter, Quarterly Subscription Revenue Increases 160% from 2004”. The press release states in relevant part:

**SILVER SPRING, MD, March 16, 2006 — WorldSpace, Inc. (NASDAQ: WRSP),** one of the world leaders in satellite-based digital radio services, today reported its financial and operating results for the fourth quarter and full year ended December 31, 2005.

WorldSpace finished the year with 115,306 subscribers. The Company added 40,235 subscribers in the fourth quarter of 2005, an increase of approximately 160% over the 15,545 subscribers added in fourth quarter of 2004. In India, the Company had 74,574 subscribers at the end of the fourth quarter of 2005, up over 100% from 35,670 at the end of the third quarter of 2005 and up nearly 800% from 8,335 at the start of the year.

At the end of the fourth quarter of 2005, WorldSpace had rolled out its satellite radio services in nine cities in India – Mumbai, Delhi, Bangalore, Chennai, Hyderabad, Kochi, Pune, Ahmedabad and Chandigarh. Service in Kolkata, India’s second largest city, was launched in February 2006. WorldSpace’s market distribution is now available to a population of nearly 63 million, including nearly 35 million people in the top three economic segments targeted by the Company.

“WorldSpace made important progress against all of our key operational metrics during the fourth quarter of 2005, especially in delivering strong subscriber growth,” said Noah Samara, chairman and chief executive officer, WorldSpace. “We believe we have gained significant traction in our efforts to acquire new subscribers, and will continue to do so as our visibility and brand awareness grow with the roll-out of our service to additional metropolitan areas, supported by targeted marketing campaigns. We also have made great strides in building our senior management teams, internationally and at the corporate level, by adding quality people with key areas of expertise that will be critical to our forward momentum.”

### **WorldSpace’s 2005 highlights**

- Added over 80,000 new subscribers during the year, growing global subscriber base to over 115,000 subscribers at year end 2005;
- Added over 66,000 new subscribers in India during the year, including 40,000 subscribers following the launch of a major marketing and promotional campaign in the fourth quarter of 2005;
- Introduced 19 new programming channels, including the first India sports talk radio channel and many regional language channels in India, as well as the world’s first global hip hop channel, bringing the total number of channels broadcast on WorldSpace’s global system to 220 by the end of the year;
- Completed an initial public offering (IPO) in August 2005, raising net proceeds of approximately \$221 million;
- Raised strategic capital from and formed a technology sharing partnership with XM Satellite Radio in July 2005, including an investment of \$25 million by XM Satellite Radio. Also, three-year warrants valued at \$37.5 million were issued to XM Satellite Radio exercisable at the IPO price provided XM has made substantial technological contributions to WorldSpace, including in the areas of products, chipsets and terrestrial repeater development and deployment;
- Continued the expansion of our distribution and geographic presence in India, with over 650 retail points of presence in nine cities at the end of the year covering approximately 30 million people in WorldSpace’s target market segment of the India population;
- Obtained terrestrial repeater licenses in United Arab Emirates and Bahrain, the first L-band terrestrial repeater licenses for satellite radio.

Noah Samara said, “2006 is a pivotal year for WorldSpace. We are working hard to gain key regulatory approvals for the delivery of mobile services in certain of our markets, and to increase the variety of our receivers. We are moving into more cities in India and

we are gaining strength in other countries where subscribers can be added at little incremental cost. We started the year well with the FCC's approval of our license application for our Afristar-2 satellite, which when launched, will enable us to broaden our offerings in Europe and the Middle East."

### **Revenue Continues to Accelerate**

For the fourth quarter of 2005, WorldSpace reported quarterly revenues of approximately \$4.4 million, representing 95% increase compared with revenues of approximately \$2.3 million for the fourth quarter of 2004. Subscription revenue increased approximately 160% to approximately \$1.1 million for the fourth quarter of 2005 compared with subscription revenue of approximately \$0.4 million for the fourth quarter of 2004. On an annual basis, total revenues for 2005 were \$11.7 million in 2005, a 36% increase over 2004 total revenues of \$8.6 million. Subscription revenue in 2005 was \$3.7 million, a 255% increase over \$1.0 million in 2004.

### **Net Loss Narrows**

WorldSpace recorded a net loss for the fourth quarter 2005 of \$33.2 million, or \$0.90 per share, compared with a net loss of \$418.2 million, or \$71.45 per share for the fourth quarter of 2004, a period that included stock compensation expenses and other costs associated with an inter-company consolidation and subsequent debt restructuring. WorldSpace had an EBITDA (earnings before interest income, interest expense, income taxes, depreciation and amortization) loss of \$44.9 million for the fourth quarter of 2005, compared with an EBITDA loss of \$101.0 million for the fourth quarter of 2004.

### **CPGA Declines**

Cost per Gross Addition (CPGA) during the fourth quarter of 2005 was \$172 compared with \$407 in the third quarter of 2005. CPGA in India declined from \$508 in the third quarter 2005 to \$154 in the fourth quarter. WorldSpace's Subscriber Acquisition Cost (SAC) for the fourth quarter of 2005 was \$43 per subscriber, while the India SAC for the three-month period was \$43 per subscriber; for the third quarter of 2005, these amounts were \$27 for global SAC and \$38 for India SAC, respectively. In the fourth quarter of 2005, WorldSpace spent approximately \$9.6 million on sales, marketing and subscriber acquisition expenses globally, including \$8.0 million in India compared with \$4.9 million and \$4.1 million respectively in the third quarter of 2005.

32. That same day, March 16, 2006, during a conference call with analysts, and investors, the Company revealed that service to subscribers was not immediately discontinued when a customer failed to renew its subscription as set forth below:

Q: [Cowen & Co. analyst]” TOM WATTS: In terms of your previous 1999 promotions that you began in was it October I believe, that included three month pre-payment of service. What sort of renewal rates have you seen at the end of the three months as people started roll off of that? How does – can you just talk about the process of getting people to start paying on a regular basis?

A: [Defendant] GANESAN: Sure. As you know, as you know all, we launched this three months promotional campaign in the first half of October 2005. It was very successful campaign. We added about 39,00 subscribers just in the fourth quarter after we launched that campaign in India. We have begun to see renewals and disconnect from that promotional campaign beginning to happen now.

Well, we disconnect subscribers when we change passwords. And right now we changed passwords every 90 days. And so we can really get the true estimate of renewals as well as the return from that promotional campaign only at the – when we actually disconnect these – we change the passwords.

We are addressing that from a technological perspective so we can disconnect people earlier and get to these kinds of estimates earlier. But that is the case. But what I can tell you is that we did do a customer satisfaction survey after we launched the promotional campaign. And as Nosh said 96% of those surveyed said that they would recommend the service to others or have already recommended. Another 94% are very satisfied with the, with the content and the service. And then the mid 70% they said that they’ll renew the service based upon a certain pricing plan. And that number goes up based upon multi-year plans that we may be able to offer as well.

So right now we cannot give you the right—exact variable numbers of the general numbers. But clearly the satisfaction surveys show that it’s a question of execution and we are executing right now. We’ve got a renewal plan in place. Our team in India are working hard, making all the contacts that they have make to get these subscribers renewed.

TOM WATTS: And when does the next password change?

GANESAN: End of this month.

33. This revelation shocked the market, causing the Company’s stock to fall the following day—March 17, 2006 --- \$2.63 a share or over 22% from its previous closing price. During the next two trading days, the Company’s stock fell another 16% and 20% on March 20 and 21, 2006, respectively. Ultimately, on March 21, 2006 the Company’s stock closed at \$5.95 per share.

34. On March 24, 2006, analysts Tom Watts and Shaun Parvez of SG Cowen & Co. provided a customer timeline illustrating how Worldspace continued to include churned customers in the Company's subscriber count past the date when the customer should be counted as churned and until the next quarterly passcode change.

35. On May 9, 2006, the Company held its Q2 conference call with analysts and investors to discuss the Company's Q2 2006 financial results. Defendant Ganesan, in response to a question by analyst Tom Watts—admitted that the Company's subscriber count included subscriptions which were expired but not yet disconnected.

### **FIRST CLAIM**

#### **Violation Of Section 11 of the Securities Act Against All Defendants**

36. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is not based on and does not sound in fraud.

37. This claim is brought by Plaintiff on his own behalf and on behalf of other members of the Class who acquired Worldspace stock pursuant to the Registration Statement and Prospectus. Each Class Member acquired their shares pursuant to and/or traceable to, and in reliance on, the Registration Statement and Prospectus. Worldspace is the issuer of the securities through the Registration Statement and Prospectus. The Individual Defendants are signatories of the Registrations Statement and Prospectus. UBS and Cowen are underwriters of the securities offered through the Registration Statement and Prospectus.

38. Defendants owed to the purchasers of the stock obtained through the Registration Statement and Prospectus the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement and Prospectus at the time they became effective to ensure

that such statements were true and correct and that there was no omission of material facts required to be stated in order to make the statements contained therein no misleading.

39. None of the defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement and Prospectus were true or that there was no omission of material facts necessary to make the statements made therein misleading.

40. Defendants issued and disseminated, caused to be issued and disseminated, and participated in the issuance and dissemination of, material misstatements to the investing public which were contained in the Registration Statement and Prospectus, which misrepresented or failed to disclose, among other things, the facts set forth above. By reason of the conduct alleged herein, each defendants violated and/or controlled a person who violated Section 11 of the Securities Act.

41. Worldspace is the issuer of the stock sold via the Registration Statement and Prospectus. As issuer of stock, the Company is strictly liable to Plaintiff and the Class for the material misstatements and omissions therein.

42. At the times they obtained their shares of Worldspace, Plaintiff and members of the Class did so without knowledge of the facts concerning the misstatements of omissions alleged herein.

43. This action is brought within one year after discovery of the untrue statements and omissions in and from the Registration Statement and Prospectus should have been made through the exercise of reasonable diligence, and within three years of the effective date of the Registration Statement and Prospectus.

44. By virtue of the foregoing, plaintiff and the other members of the class are entitled to damages under Section 11 as measured by the provisions of the Section 11(e), from the defendants and each of them, jointly and severally.

## **SECOND CLAIM**

### **Violations of Section 12(a)(2) of the Securities Act The Exchange Act Against All Defendants**

45. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is not based on and does not sound in fraud.

46. The Registration Statement and Prospectus included untrue statements of material fact and omitted to state material facts necessary in order to make the statements, in light of the circumstances in which they were made, not misleading.

47. Plaintiff and the members of the Class did not know, nor could they have known, of the untruths of omissions contained in the Registration Statement and Prospectus.

48. The defendants named herein were obligated to make a reasonable and diligent investigation of the statements contained in the Registration Statement and Prospectus to ensure that such statements were true and that there was no omission of material fact required to be stated in order to make the statements contained therein not misleading. None of the defendants names in this Claims made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement and Prospectus were accurate and complete in all material respects.

49. This claim was brought within one year after the discovery of the untrue statements and omissions in the Registration Statement and Prospectus and within three years after the Worldspace common stock was sold to the Class in connection with the IPO.

50. By reason of the misconduct alleged herein, the defendants named in this Claim violated Section 12(a)(2) of the Securities Act and are liable to plaintiff the members of the Class whom purchased or acquired Worldspace common stock in the IPO, each of whom has been damaged as a result of such violations.

51. Plaintiff and the members of the Class who purchased Worldspace common stock in the IPO hereby seek rescission of their purchases and hereby tender to the defendants named in this Count the common stock, which Plaintiff and the other members of the Class continue to own, in return for the consideration paid for those securities, together with interest thereon.

### **THIRD CLAIM**

#### **Violations of Section 15 of the Securities Act Against Defendants Samara and Ganesan**

52. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is not based on and does not sound in fraud.

53. This claim is asserted against the Individual Defendants, each of whom was a control person of Worldspace during the relevant time period.

54. For the reasons set forth above in the First Claim, above, Worldspace liable to the plaintiff and the members of the Class who purchased Worldspace common stock in the IPO based on the untrue statements and omissions of material fact contained in the Registration Statement and Prospectus, pursuant to Section 11 of the Securities Act, and were damaged thereby.

55. Defendants Samara and Ganesan were control persons of Worldspace by virtue of, among other things, their positions as senior officers of Worldspace, and they were in positions to control and did control the false and misleading statements and omissions contained in the Registration Statement and Prospectus.

56. Neither Samara nor Ganesan made reasonable investigation or possessed reasonable ground for the belief that the statements contained in the Registration Statement and Prospectus were accurate and completed in all material respects. Had they exercised reasonable care, they could have known of the material misstatements and omissions alleged herein.

57. This claims was brought within one year after the discovery of the untrue statements and omissions in the Registration Statement and Prospectus and within three years after the Worldspace common stock was sold to the Class in connection with the IPO.

58. By reason of the misconduct alleged herein, for which Worldspace is primarily liable, as set forth above, defendants Samara and Ganesan are jointly and severally liable with and to the same extent as Worldspace pursuant to Section 15 of the Securities Act.

**WHEREFORE**, plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as Lead Counsel;
- (b) Awarding damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, together with interest thereon;
- (c) Awarding plaintiff and the Class rescission on the Second Claim to the extent they still hold Worldspace common stock, or if sold, awarding rescissory damages in accordance with Section 12(a)(2) of the Securities Act;
- (d) Awarding plaintiff and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (e) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: March \_\_, 2007

Respectfully submitted,

**THE ROSEN LAW FIRM, P.A.**

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