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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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	:	
In re:	:	Chapter 11
	:	
Alpha Natural Resources, Inc., et al.,	:	Case No. 15-33896 (KRH)
	:	
Debtors.	:	(Jointly Administered)
	:	
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	X	

**INTERIM ORDER (I) AUTHORIZING DEBTORS (A) TO OBTAIN POST-PETITION
FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363(b), 364(c)(1), 364(c)(2),
364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL
PURSUANT TO 11 U.S.C. § 363, (II) GRANTING ADEQUATE PROTECTION TO PRE-
PETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, 363, 364 AND
507(b) AND (III) SCHEDULING FINAL HEARING PURSUANT
TO BANKRUPTCY RULES 4001(b) AND (c)**

Upon the motion (the “**Motion**”),¹ dated August 3, 2015, of Alpha Natural Resources,
Inc. (the “**Borrower**”) and its affiliated debtors, each as debtor and debtor-in-possession
(collectively with the Borrower, the “**Debtors**”), in the above-captioned chapter 11 cases (the

¹ Capitalized terms used, but not defined herein, shall have the meanings set forth in the DIP Documents.



“Cases”) pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the **“Bankruptcy Code”**) and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the **“Bankruptcy Rules”**), seeking, among other things:

(1) authorization for the Borrower to obtain post-petition financing (the **“DIP Financing”**), and for all but one of the other Debtors (collectively, the **“Guarantors”**) to guaranty the Borrower’s obligations in connection with the DIP Financing, consisting of, (i) a term loan in the amount of \$300,000,000 (the **“DIP Term Facility”**), a portion of which shall be used to fund a cash collateralized letter of credit facility (the **“Term L/C Facility”**), (ii) upon the request of the Borrower and further approval of this Court, and with no obligation or commitment on the part of any bank, financial institution or other entity, revolving credit loans in an amount to be agreed (the **“DIP Revolving Facility”** and, together with the DIP Term Facility, the **“First Out Facility”**) subject to the terms thereof, (iii) a facility for letters of credit (the **“Second Out Letters of Credit”**) issued to replace letters of credit (the **“Existing R/C Letters of Credit”**) issued in the aggregate amount of approximately \$192,000,000 as of the Petition Date under the Pre-Petition Credit Agreement (as defined below), inclusive of any obligations as to reimbursement, renewal and extension of same (the **“Second Out Facility”** and, together with the DIP Term Facility, the Term L/C Facility, the DIP Revolving Facility and the Bonding Facility Letters of Credit (as defined below), the **“DIP Facilities”**), subject to the terms set forth in the Second Out DIP Credit Agreement (as defined below) and (iv) an accommodation facility for

Bonding Requests by Bonding Beneficiaries (each as defined below) in the form of (or any combination of) (a) the Bonding Carve Out (as defined below) and/or (b) the issuance of letters of credit under the First Out DIP Credit Agreement (as defined below) secured by cash collateral (the “**Bonding Facility Letters of Credit**” and, together with the Bonding Carve Out, the “**Bonding Accommodation**”), in an aggregate stated amount (the “**Bonding Accommodation Cap**”) of up to \$100,000,000 or such greater amount as agreed in writing by the Required Lenders (as defined in the First Out DIP Credit Agreement), subject to the terms set forth in the First Out DIP Credit Agreement, from Citibank, N.A. (“**Citi**”), acting as administrative agent and collateral agent for the Term Secured Parties (as defined in the Security and Intercreditor Agreement) (in such capacities, the “**First Out Term Agent**”), (w) after the Revolving Facility Effective Date (as defined in the First Out DIP Credit Agreement), as administrative agent and collateral agent for the Revolving Secured Parties (as defined in the Security and Intercreditor Agreement) (in such capacities, the “**Revolving Agent**”), (x) as administrative agent and collateral agent for the Bonding L/C Secured Parties (as defined in the Security and Intercreditor Agreement) (in such capacities, the “**Bonding L/C Agent**”), (y) as administrative agent and collateral agent for the Term L/C Secured Parties (as defined in the Security and Intercreditor Agreement) (in such capacities, the “**Term L/C Agent**” and, together with the First Out Term Agent, the Revolving Agent and the Bonding L/C Agent, the “**First Out DIP Agent**”) and (z) as administrative agent and collateral agent for the Second Out Secured Parties (in

such capacities, the **“Second Out DIP Agent”** and in all of the foregoing capacities as First Out Term Agent, Revolving Agent, Bonding L/C Agent and Second Out DIP Agent and together with any respective successor thereto, the **“DIP Agent”**), for itself, the issuers of Second Out Letters of Credit and the other lenders with participation interests in the Second Out Letters of Credit (together, the **“Second Out DIP Lenders”** and, together with the Term Secured Parties, the Revolving Secured Parties and the Bonding L/C Secured Parties, the **“DIP Lenders”**), in each case to be arranged by Citigroup Global Markets Inc. (the **“Lead Arranger”**);

(2) authorization for the Debtors to execute and enter into the DIP Documents and to perform all such other and further acts as may be required in connection with the DIP Documents;

(3) authorizing the granting of adequate protection in the form of the Adequate Protection Obligations, Adequate Protection Liens and Cross-Collateralization Liens (as each is defined and described below) solely to (i) the lenders (the **“Pre-Petition Lenders”**) under or in connection with that certain Fifth Amended and Restated Credit Agreement, dated as of September 24, 2014 (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the **“Pre-Petition Credit Agreement”**), among the Borrower, the lenders listed therein, the issuing banks listed therein, and Citicorp North America, Inc. (**“CNAI”**), as administrative agent for the Pre-Petition Lenders (in such capacity and together with any successor thereto, the **“Pre-Petition Agent”**), and that certain Amended and Restated Guarantee and Collateral Agreement,

dated as of June 1, 2011, between the Borrower, the guarantors listed therein, and CNAI, as Collateral Agent (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the **“Guarantee and Collateral Agreement”** and, collectively with the Pre-Petition Credit Agreement, and the mortgages and all other documentation executed in connection therewith, the **“Existing Credit Documents”**), and (ii) the holders (the **“Second Lien Noteholders”**) of the 7.5% Second Lien Notes due 2020 (the **“Second Lien Notes”**) issued under or in connection with (x) that certain Indenture, dated as of May 20, 2014 (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the **“2014 Second Lien Notes Indenture”**) and (y) that certain Indenture, dated as of March 23, 2015 (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the **2015 Second Lien Notes Indenture”** and, together with the 2014 Second Lien Notes Indenture, the **“Second Lien Notes Indentures”**), each among the Borrower, each of the guarantors party thereto, and Wilmington Trust, National Association, as trustee (in such capacity and together with any successor thereto, the **“Second Lien Notes Trustee”**) (the Second Lien Notes Indentures, together with the security agreements, mortgages and all other documentation executed in connection therewith, the **“Existing Second Lien Indentures Documents”**) and (iii) that certain Senior Indenture, dated as of August 12, 2008, by and among Massey Energy Company (n/k/a Alpha Appalachia Holdings, Inc.) (**“Massey”**), the subsidiaries of Massey party thereto and Wilmington Trust Company, as trustee (the **“Massey Notes Trustee”**) (as supplemented by that certain First

Supplemental Indenture, dated as of August 12, 2008, by and among Massey, the subsidiaries of Massey party thereto, and Wilmington Trust Company, as trustee, the “**Massey Convertible Notes Indenture**” and, together with the Pre-Petition Credit Agreement and the Second Lien Notes Indenture, the “**Pre-Petition Facilities**”), pursuant to which \$109,201,000 aggregate principal amount of Massey’s 3.25% Convertible Senior Notes due 2015 (the “**Massey Convertible Notes**”, the holders of such notes, the “**Massey Convertible Noteholders**” and the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee, the Second Lien Noteholders, the Massey Notes Trustee and the Massey Convertible Noteholders, together, the “**Pre-Petition Secured Parties**”) are outstanding (the Massey Convertible Notes Indenture, together with the security agreements, mortgages and all other documentation executed in connection therewith, the “**Existing Massey Convertible Notes Indenture Documents**” and, together with the Existing Credit Documents and the Existing Second Lien Indentures Documents, the “**Existing Secured Agreements**”), whose liens and security interests are being primed by the DIP Financing;

(4) that, upon occurrence of the Second Out Facility Effective Date, the Court deem the Debtors’ obligations in respect of Second Out Letters of Credit to have been incurred under the applicable DIP Documents;

(5) authorization for the Debtors to continue to use Cash Collateral (as defined below) and all other Pre-Petition Collateral (as defined herein) in which any of the Pre-Petition Secured Parties have an interest, and the granting of adequate protection in the form of the Adequate Protection Obligations, Adequate

Protection Liens and Cross-Collateralization Liens to the Pre-Petition Secured Parties, as applicable, with respect to, *inter alia*, such use of their Cash Collateral and all use and diminution in the value of such Cash Collateral and the Pre-Petition Collateral (as defined below), as applicable, including, but not limited to, superpriority administrative expense claims to the Pre-Petition Agent and the Pre-Petition Lenders for the diminution in value of their Cash Collateral and their Pre-Petition Collateral, junior superpriority administrative expense claims to the Second Lien Notes Trustee and the Second Lien Noteholders for the diminution in value of their Cash Collateral and their Pre-Petition Collateral, and authorization for the Debtors to grant to (x) the Pre-Petition Agent on its behalf and on behalf of the Pre-Petition Lenders automatically perfected replacement security interests in and liens on the DIP Collateral and (y) the Second Lien Notes Trustee on its behalf and on behalf of the Second Lien Noteholders automatically perfected junior replacement security interests in and liens on the DIP Collateral, and the Cross-Collateralization Liens, in each case to the extent set forth herein;

(6) approval of certain stipulations in paragraph 4 of this Interim Order by the Debtors with respect to the Existing Credit Documents and the Existing Second Lien Indentures Documents and the liens and security interests arising therefrom;

(7) the granting of superpriority claims under section 364(c)(1) of the Bankruptcy Code to the DIP Lenders payable from, and having recourse to, all pre-petition and post-petition property of the Debtors' estates and all proceeds thereof (including, subject only to and effective upon entry of the Final Order (as

defined below), any Avoidance Proceeds (as defined below)), subject, to the Fees Carve Out (as defined below) and the Bonding Carve Out;

(8) subject only to and effective upon entry of the Final Order, the limitation of the Debtors' right to surcharge against collateral pursuant to section 506(c) of the Bankruptcy Code;

(9) The incorporation of the recitals in the Collateral Substitution, Release, and Conveyance Agreement attached hereto as Exhibit B (the "**Substitution and Release Agreement**") herein by reference, and the stipulation by Alpha Coal Sales Co., LLC ("**Alpha Coal Sales**" and, in its capacity as servicer in connection with the Pre-Petition Receivables Facility, the "**Servicer**," and in its capacity as originator of receivables in connection with the Pre-Petition Receivables Facility, the "**Originator**") and Borrower that each of the recitals contained in the Substitution and Release Agreement is true and correct;

(10) pursuant to Bankruptcy Rule 4001, that an interim hearing (the "**Interim Hearing**") on the Motion be held before this Court to consider entry of an order granting the Motion on an interim basis (as entered on the docket, the "**Interim Order**") (a) authorizing the Borrower, on an interim basis, to forthwith borrow, obtain or deem replaced letters of credit from the DIP Lenders under the DIP Documents up to an aggregate principal or face amount not to exceed (i) \$108,000,000 under the Term L/C Facility, (ii) \$192,000,000 under the Second Out Facility and (iii) \$100,000,000 of Bonding Facility Letters of Credit (in each case plus interest, fees, paid-in-kind fees and other expenses and amounts provided for in the DIP Documents and subject to any limitations of borrowings

under the DIP Documents) to provide operating cash for the Debtors and bonding and letter of credit capacity for the Debtors' businesses, (b) authorizing the Debtors' continued use of Cash Collateral and all other Pre-Petition Collateral, and (c) granting the adequate protection in the form of the Adequate Protection Obligations, Adequate Protection Liens and Cross-Collateralization Liens; and

(11) that this Court schedule a final hearing (the "**Final Hearing**") to be held within 30 days of the entry of this Interim Order to consider entry of a final order (the "**Final Order**") approving the relief granted herein on a final basis.

Due and appropriate notice of the Motion, the relief requested therein and the Interim Hearing having been served by the Debtors on the (i) the Office of the United States Trustee for the Eastern District of Virginia (the "**U.S. Trustee**"), (ii) the Office of the United States Attorney for the Eastern District of Virginia (the "**U.S. Attorney**"), (iii) the DIP Agent and its attorneys, (iv) the Pre-Petition Agent and its attorneys, (v) the Second Lien Notes Trustee and its attorneys, (vi) counsel to the ad hoc group of Second Lien Noteholders (the "**Second Lien Noteholder Group**"), (vii) the indenture trustees for each of the Debtors' unsecured and/or convertible outstanding bond issuances (and counsel, where known), (viii) General Electric Capital Corporation, as Pre-Petition Receivables Facility Agent (as defined below) and its counsel, (ix) the Internal Revenue Service, (x) the Securities and Exchange Commission, (xi) the United States Environmental Protection Agency, (xii) those creditors holding the 50 largest secured claims against the Debtors' estates on a consolidated basis, (xiii) United Mine Workers of America, and (xiv) any party that has requested notice pursuant to Bankruptcy Rule 2002 as of the time of service.

The Interim Hearing having been held by this Court on August 4, 2015.

Upon the record made by the Debtors in the Motion, the Declaration of Kevin S. Crutchfield, Chief Executive Officer and Chairman of the Board of Directors of Debtor Alpha Natural Resources, Inc. in Support of First Day Pleadings of Debtors and Debtors in Possession, the Declaration of Philip J. Cavatoni, Chief Financial and Strategy Officer of Debtor Alpha Natural Resources, Inc. in Support First Day Pleadings of Debtors and Debtors in Possession, and the Declaration of Homer Parkhill of Rothschild, Inc. in Support of Debtors' Motion for Interim and Final Orders (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(b), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507 and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c), and at the Interim Hearing, and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Disposition.* The Motion is granted on an interim basis in accordance with the terms of this Interim Order. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits.

2. *Jurisdiction.* This Court has core jurisdiction over the Cases, this Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. *Notice.* Notice of the Motion, the relief requested therein and the Interim Hearing was served by the Debtors on (i) the U.S. Trustee, (ii) the U.S. Attorney, (iii) the DIP Agent and its attorneys, (iv) the Pre-Petition Agent and its attorneys, (v) the Second Lien Notes

Trustee and its attorneys, (vi) counsel to the Second Lien Noteholder Group, (vii) the indenture trustees for each of the Debtors' outstanding unsecured and/or convertible bond issuances (and their respective counsel, where known), (viii) General Electric Capital Corporation, as Pre-Petition Receivables Facility Agent and its counsel, (ix) the Internal Revenue Service, (x) the Securities and Exchange Commission, (xi) the United States Environmental Protection Agency, (xii) those creditors holding the 30 largest secured claims against the Debtors' estates on a consolidated basis, (xiii) United Mine Workers of America and (xiv) any party that has requested notice pursuant to Bankruptcy Rule 2002 as of the time of service. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing. Under the circumstances, the notice given by the Debtors of the Motion and the Interim Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 4001(b) and (c). No further notice of the relief sought at the Interim Hearing is necessary or required.

4. *Debtors' Stipulations.* Without prejudice to the rights of any other party and subject in all respects to the limitations thereon contained in paragraphs 23 and 24 below, the Debtors admit, stipulate and agree (provided that no such stipulations or agreements shall limit, impair or modify in any way the rights, protections or remedies of the DIP Agent or the DIP Lenders, including, with respect to any Default or Event of Default under any of the DIP Documents), that:

(a) as of the filing of the Debtors' chapter 11 petition (the "**Petition Date**"), the Debtors were indebted and liable to the Pre-Petition Lenders and the Second Lien Noteholders, without defense, counterclaim or offset of any kind, as follows:

(i) the Borrower is indebted to the Pre-Petition Lenders, in the aggregate principal amount of approximately \$1,055,937,000 in respect of loans made and in the aggregate principal amount of approximately \$191,167,791 in respect of issued Existing R/C Letters of Credit, in each case, by the Pre-Petition Lenders pursuant to, and in accordance with the terms of, the Existing Credit Documents, plus, in each case, interest thereon and fees, expenses (including any fees of any Representative (as defined below) that are chargeable or reimbursable under the Existing Credit Documents), charges and other obligations incurred in connection therewith as provided in the Existing Credit Documents (collectively, the “**Pre-Petition Credit Agreement Debt**”), which Pre-Petition Credit Agreement Debt is guaranteed on a joint and several basis by all of the other Debtors (excluding Shannon-Pocahontas Mining Company, Alpha Sub Ten, Inc., Alpha Sub Nine, LLC, Alpha Sub Eleven, Inc., Alpha Sub Eight, LLC, Gray Hawk Insurance Company, Coal Gas Recovery II, LLC, Pennsylvania Land Resources Holding Company, LLC, and Pennsylvania Land Resources, LLC) (collectively, the “**Pre-Petition Guarantors**”) under the terms of the applicable Existing Credit Documents and is secured by first priority liens on and security interests in the Senior Lender Collateral (as defined in that certain Second Lien Intercreditor Agreement, dated as of May 20, 2014, among the Pre-Petition Agent, the Second Lien Notes Trustee and the other parties thereto (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the “**ICA**”)) of the Borrower and the Pre-Petition Guarantors, including, without limitation, Cash Collateral (such liens and security interests in the Senior

Lender Collateral, collectively, the “**Pre-Petition Lender Security Interests**”); *provided* that, for the avoidance of doubt, the Pre-Petition Lender Security Interests do not extend to any Excluded Assets (as defined in the Existing Credit Documents) or any cash not within the definition of Cash Collateral hereunder; and

(ii) the Borrower is indebted to the Second Lien Notes Trustee and the Second Lien Noteholders, in the aggregate principal amount of \$714,000,000 (plus accrued and unpaid interest thereon and fees, expenses (including any fees of any Representative that are chargeable or reimbursable under the Existing Second Lien Indentures Documents), charges and other obligations incurred in connection therewith as provided in the Existing Second Lien Indentures Documents) in respect of the Second Lien Notes (the “**Second Lien Notes Debt**” and, together with the Pre-Petition Credit Agreement Debt, the “**Stipulated Debt**”), which Second Lien Notes Debt is guaranteed on a joint and several basis by all of the Pre-Petition Guarantors under the terms of the applicable Existing Second Lien Indentures Documents and secured by liens on and security interests in the Second Priority Collateral (as defined in the ICA) of the Debtors, including, without limitation, Cash Collateral (collectively, the “**Second Lien Notes Security Interests**” and, together with the Pre-Petition Lender Security Interest, the “**Stipulated Security Interests**”); *provided* that, for the avoidance of doubt, the Second Lien Notes Security Interests do not extend to any Excluded Assets (as defined in the Existing Credit Documents), any First Lien Separate Collateral

(as defined in the ICA), or any cash not within the definition of Cash Collateral hereunder;

(b) the ICA is binding and enforceable against the Borrower and the Pre-Petition Guarantors in accordance with its terms (as set forth in the acknowledgement attached thereto), and the Borrower and the Pre-Petition Guarantors are not entitled to take any action that would be contrary to the provisions of the ICA;

(c) the Borrower and the Pre-Petition Guarantors owe the Stipulated Debt to the Pre-Petition Lenders and the Second Lien Noteholders, without defense, counterclaim or offset of any kind, plus, in each case, interest, fees, expenses (including any fees of any Representative that are chargeable or reimbursable under the Existing Credit Documents or the Existing Second Lien Indentures Documents), charges and other obligations incurred prior to the Petition Date in connection therewith, whether or not evidenced by any note, agreement or instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing or chargeable, as provided in the Existing Credit Documents or the Existing Second Lien Indentures Documents;

(d) the Stipulated Debt is (i) legal, valid, binding and enforceable against the Borrower and the Pre-Petition Guarantors, each in accordance with its terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code), and (ii) not subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, under applicable non-bankruptcy law or otherwise (except for any lien subordination contemplated in the ICA);

(e) the Stipulated Security Interests are (i) legal, valid, binding, enforceable, non-avoidable and duly perfected and are (ii) not subject to any attachment, contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, under applicable non-bankruptcy law or otherwise (except for any lien subordination contemplated in the ICA) and, as of the Petition Date and before giving effect to this Interim Order, the Debtors are not aware of any other liens or security interests having priority over the Stipulated Security Interests, except, as the case may be, (i) certain liens permitted under any of the Existing Credit Documents or the Existing Second Lien Indentures Documents (“**Permitted Liens**”) and (ii) the liens in favor of the Massey Notes Trustee on the Principal Property (as defined in the Massey Convertible Notes Indenture), which liens are granted on an equal and ratable basis with the liens of the Pre-Petition Lenders on such property;

(f) the Debtors’ initial borrowings under the DIP Term Facility will be used in part to cash collateralize letters of credit issued as part of the Term L/C Facility to backstop the approximately \$102,800,000 of letters of credit (the “**Receivables Facility Letters of Credit**”) outstanding as of the Petition Date under that certain Credit and Security Agreement, dated as of September 19, 2014 (as heretofore amended, supplemented or otherwise modified in accordance with the terms thereof, the “**Pre-Petition Receivables Facility**”), among ANR Second Receivables Funding, LLC, as Borrower, the lenders listed therein, General Electric Capital Corporation, as Administrative Agent (the “**Pre-Petition Receivables Facility Agent**”) and Webster

Business Credit Corporation, as L/C Lender and Lender, in each case in accordance with the terms and conditions set forth in this Interim Order;

(g) none of the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders control the Debtors or their properties or operations, have authority to determine the manner in which any Debtor's operations are conducted or are insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Existing Credit Documents or the Existing Second Lien Indentures Documents;

(h) the liens granted to the DIP Agent on behalf of the DIP Lenders pursuant to this Interim Order, shall be perfected, valid, enforceable and non-avoidable liens against the Debtors; and

(i) the Debtors hereby absolutely and unconditionally acknowledge and agree that no claims or causes of action exist against, or with respect to, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders under any agreements by and among the Debtors and any such party that is in existence as of the Petition Date;

(j) effective as of the date of entry of the Interim Order the Debtors hereby absolutely and unconditionally release and forever discharge and acquit the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and each Second Lien Noteholder and their respective Representatives (as defined herein) (collectively, the **"Released Parties"**) from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, demands, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date (collectively, the

“Released Claims”) of any kind, nature or description, whether known or unknown, foreseen or unforeseen, or liquidated or unliquidated, arising in law or equity or upon contract or tort or under any state or federal law or otherwise, arising out of or related to the Existing Credit Documents, the Existing Second Lien Indentures Documents, the obligations owing and the financial obligations made thereunder, the DIP Facilities, the DIP Documents, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, as well as the Cases, and/or the negotiation, formulation or preparation of any agreements, instruments or other documents related thereto, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Order, whether such Released Claims are matured or unmatured or known or unknown.

5. *Authorization of the Substitution and Release Agreement*

(a) Pursuant to sections 363 and 365 of the Bankruptcy Code, Alpha Coal Sales, in its capacity as the Originator and the Servicer, and Borrower are hereby authorized to enter into the Substitution and Release Agreement substantially in the form annexed hereto as Exhibit B. Without further approval of the Court, Alpha Coal Sales and Borrower are authorized to perform all acts, to make, execute and deliver all instruments and documents, and to pay all fees that may be required or necessary for the performance of their obligations under the Substitution and Release Agreement. Upon execution and delivery, the Substitution and Release Agreement shall constitute valid and

binding obligations of Alpha Coal Sales and Borrower, enforceable against Alpha Coal Sales and Borrower in accordance with its terms.

(b) Pursuant to sections 363 and 365 of the Bankruptcy Code, Alpha Coal Sales, in its capacity as the Servicer, is authorized to and shall (i) fully and timely perform all of its servicing obligations arising from and after the Petition Date, pursuant to that certain Servicing Agreement dated September 19, 2014, by and between Alpha Coal Sales, as Servicer, and ANR Second Receivables Funding, LLC, as borrower (the “**SPE Borrower**”), as modified by the Substitution and Release Agreement, (ii) identify and segregate the proceeds of Receivables (as defined in the Pre-Petition Receivables Facility) in the manner provided for in the Pre-Petition Receivables Facility and the Substitution and Release Agreement and (iii) take such other actions as may be necessary or appropriate to implement the provisions of the Substitution and Release Agreement.

(c) Any default by Alpha Coal Sales or Borrower under the Substitution and Release Agreement shall be governed by the terms of the Substitution and Release Agreement, and neither section 105(a) nor section 362(a) of the Bankruptcy Code shall affect the right of the Pre-Petition Facility Receivables Agent to pursue any and all remedies thereunder. To the extent necessary, the automatic stay imposed by section 362(a) of the Bankruptcy Code is deemed modified to permit the exercise, upon five days’ notice to the Debtors, with copies to the U.S. Trustee and counsel to the Creditors’ Committee (as defined below), of any rights and remedies (which may include termination of the Servicer pursuant to paragraph 4(a) of the Substitution and Release Agreement) that the Pre-Petition Facility Receivables Agent may have under the Substitution and Release Agreement. To the extent necessary, the automatic stay

imposed by section 362(a) of the Bankruptcy Code is deemed further modified so as to permit the delivery and effectiveness of any notice of non-extension of any Receivables Facility Letter of Credit.

(d) Upon and after execution of the Substitution and Release Agreement, (i) the SPE Borrower shall not purchase or acquire any new Receivables (as such term is used in the Substitution and Release Agreement); (ii) the Servicer shall deposit all funds constituting proceeds of Receivables that are from time to time on deposit in the Lockbox Account (as defined in the Substitution and Release Agreement) to the account set forth in paragraph 4(b) of the Substitution and Release Agreement on each Business Day; and (iii) to the extent that the Servicer determines that funds received in the Lockbox Account or the Lockbox (as defined in the Substitution and Release Agreement) do not constitute proceeds of Receivables, the Servicer shall promptly advise the Pre-Petition Receivables Facility Agent and Pre-Petition Receivables Facility Agent shall, by the end of the Business Day, on which the Servicer has advised Pre-Petition Receivables Facility Agent of such funds, direct the release thereof to an account designated by Alpha Coal Sales.

6. *Findings Regarding the DIP Financing.*

(a) Good cause has been shown for the entry of this Interim Order.

(b) The Debtors have an immediate need to obtain the DIP Financing and continue to use Cash Collateral to permit, among other things, the orderly continuation of the operation of their businesses; to maintain business relationships with vendors, suppliers and customers; to make payroll; to make capital expenditures; to replace or backstop the Receivables Facility Letters of Credit; to fulfill other bonding and regulatory requirements; to permit the renewal and extension of certain Pre-Petition Credit Agreement Debt relating to the Existing R/C

Letters of Credit; to pay the Adequate Protection Obligations; and to satisfy other working capital and operational needs. The access of the Debtors to sufficient working capital and liquidity made available through the use of Cash Collateral, incurrence of new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the going concern value of the Debtors and to a successful reorganization of the Debtors and to payment of the Adequate Protection Obligations.

(c) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable solely under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without the Debtors granting to the DIP Agent and the DIP Lenders, subject to the Fees Carve Out and the Bonding Carve Out as (and to the extent) provided for herein, the DIP Liens and the Superpriority Claims (as defined below) and the Adequate Protection Obligations, in each case, under the terms and conditions set forth in this Interim Order and in the DIP Documents.

(d) The terms of the DIP Financing as approved herein, the terms of the Adequate Protection Obligations and Adequate Protection Liens and Cross-Collateralization Liens granted to the Pre-Petition Secured Parties, as applicable, and the terms on which the Debtors may continue to use of Cash Collateral are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(e) The DIP Financing as approved herein, as well as the terms of the Adequate Protection Obligations, Adequate Protection Liens and Cross-Collateralization Liens,

have been negotiated in good faith and at arm's length among the Debtors, the DIP Agent, the DIP Lenders, Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders and each of their respective Representatives, and all of the Debtors' obligations and indebtedness arising under, in respect of or in connection with the DIP Financing and the DIP Documents, including without limitation, (i) all loans made to, and all letters of credit issued for the account of, the Debtors pursuant to the superpriority secured debtor-in-possession credit agreement substantially in the form attached as Exhibit C to the Motion (the **"First Out DIP Credit Agreement"**) and a second out superpriority secured debtor-in-possession credit agreement in a form substantially similar to the First Out DIP Credit Agreement, with such changes as are customary for a "silent second" replacement or roll-up letter of credit facility of this type (including customary "drag along" provisions in favor of the DIP Lender with respect to certain waivers and amendments) and as may be agreed to among the Debtors, the Second Out DIP Agent and the Second Out DIP Lenders (the **"Second Out DIP Credit Agreement"** and, together with the First Out DIP Credit Agreement, the **"DIP Credit Agreements"**), and (ii) any **"Obligations"** (as defined in the First Out DIP Credit Agreement and to be defined similarly in the Second Out DIP Credit Agreement) of the Debtors, including credit extended in respect of overdrafts and related liabilities and other depository, treasury, and cash management services and other clearing services provided by the DIP Agent, any DIP Lender or any of their respective affiliates and any hedging obligations of the Debtors permitted under the DIP Credit Agreements in each case owing to the DIP Agent, any DIP Lender or any their respective banking affiliates, in accordance with the terms of the DIP Documents, any obligations, to the extent provided for in the DIP Documents, to indemnify the DIP Agent or the DIP Lenders and any Fees (as defined in the First Out DIP Credit Agreement and to be defined

similarly in the Second Out DIP Credit Agreement) (all of the foregoing in clauses (i) and (ii), collectively, the “**DIP Obligations**”), shall be deemed to have been extended by the DIP Agent and the DIP Lenders and their affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Lenders (and the successors and assigns of each) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(f) The Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders have acted in good faith regarding the DIP Financing and the Debtors’ continued use of the Pre-Petition Collateral (including the Cash Collateral) to fund the administration of the Debtors’ estates and continued operation of their businesses (including payment of the Adequate Protection Obligations and the granting of the Adequate Protection Liens and the Cross-Collateralization Liens), in accordance with the terms hereof. The Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Agent and the Second Lien Noteholders are entitled to the adequate protection provided in this Interim Order as and to the extent set forth herein pursuant to §§ 361, 362, 363 and 364 of the Bankruptcy Code. Based on the Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Pre-Petition Collateral (including the Cash Collateral) are fair and reasonable, reflect the Debtors’ prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of Cash Collateral; *provided* that nothing in this Interim Order or the other DIP Loan Documents shall (x) be construed as the affirmative consent by any of the Pre-Petition Agent, the Pre-Petition Lenders,

the Second Lien Notes Agent or the Second Lien Noteholders for the use of Cash Collateral, other than on the terms set forth in this Interim Order and in the context of the DIP Financing authorized by this Interim Order, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the Pre-Petition Collateral (whether senior or junior) or (z) prejudice, limit or otherwise impair the rights of any of the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Agent and the Second Lien Noteholders, subject to any applicable provisions of the ICA, to seek new, different or additional adequate protection or assert the interests of any of the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Agent and the Second Lien Noteholders.

(g) The Debtors have requested entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2). Absent granting the relief set forth in this Interim Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Financing and the use of Pre-Petition Collateral, including Cash Collateral in accordance with this Interim Order and the DIP Documents are therefore in the best interests of the Debtors' estates.

7. *Authorization of the DIP Financing and the DIP Documents.*

(a) The Debtors are hereby authorized to enter into and perform all obligations under the DIP Documents. The Debtors are hereby authorized to borrow money and obtain letters of credit pursuant to the DIP Credit Agreements, and the Guarantors are hereby authorized to guaranty such borrowings and the Borrower's obligations with respect to such letters of credit, up to an aggregate principal or face amount of (i) \$108,000,000 under the Term L/C Facility (and \$100,000,000 of loans under the DIP Term Facility), (ii) \$191,200,000 under the Second Out Facility and (iii) \$100,000,000 of Bonding Facility Letters of Credit (in each

case plus interest, fees, paid-in-kind fees and other expenses and amounts provided for in the DIP Documents and subject to any limitations of borrowings under the DIP Documents) in accordance with the terms of this Interim Order and the DIP Documents, which borrowings shall be used for all purposes permitted under the DIP Documents and strictly in accordance with the 13-Week Projections (as defined in the First Out DIP Credit Agreement), including, without limitation, to replace or backstop the Receivables Facility Letters of Credit, to permit the renewal and extension of certain Pre-Petition Credit Agreement Debt relating to the Existing R/C Letters of Credit, to provide working capital for the Debtors, to cash collateralize letters of credit to be issued by one or more banks for the account of the Debtors, and additional bonding capacity and to pay interest, fees and expenses in accordance with this Interim Order and the DIP Documents. In addition to such loans and obligations, the Debtors are authorized to incur hedging obligations solely as provided in the DIP Documents and overdrafts and related liabilities arising from treasury, depository and cash management services, including any automated clearinghouse fund transfers provided to or for the benefit of the Debtors by the DIP Agent, any DIP Lender or any of their affiliates; *provided, however*, that nothing herein shall require the DIP Agent or any other party to incur overdrafts or to provide any such services or functions to the Debtors.

(b) Upon the occurrence of the Second Out Facility Effective Date: (i) all Existing R/C Letters of Credit shall be deemed to have been issued and outstanding pursuant to the Second Out DIP Credit Agreement and shall constitute "Second Out Letters of Credit," which may be extended or renewed pursuant to the terms of the Second Out DIP Credit Agreement; (ii) each Issuing Bank (as defined in the Pre-Petition Credit Agreement) shall be deemed an issuing bank under the Second Out DIP Credit Agreement and shall have all of the rights and obligations thereof set forth therein; (iii) each Pre-Petition Lender that is a Second Out

DIP Lender under the Second Out Facility shall have all rights and obligations thereof under the Second Out DIP Credit Agreement and shall be bound by the terms of that certain Pledge, Security, and Intercreditor Agreement, to be entered into in connection with the DIP Credit Agreements (the “**Security and Intercreditor Agreement**”); and (iv) without limiting the foregoing, all obligations of each Second Out DIP Lender with respect to Existing R/C Letters of Credit, including, but not limited to, obligations (in each case, whether arising prior to or subsequent to the Petition Date) with respect to each Second Out DIP Lender’s funding of its participations in any L/C Disbursement (as defined in the Pre-Petition Credit Agreement) that have not been reimbursed, reimbursement, renewal and extension of the Existing R/C Letters of Credit, shall remain in full force and effect pursuant to the terms of the Second Out DIP Credit Agreement.

(c) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized and directed to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all fees, that may be reasonably required or necessary for the Debtors’ performance of their obligations under the DIP Financing, including, without limitation:

(i) the execution, delivery and performance of the DIP Credit Agreements and any exhibits attached thereto, including, without limitation, the Security and Intercreditor Agreement, all related or ancillary documents and agreements, and any mortgages contemplated thereby (collectively, and together with the letter agreements referred to in clause (iii) below, in each case, as may be amended, supplemented or otherwise modified pursuant to their respective terms, the “**DIP Documents**”),

(ii) the execution, delivery and performance of one or more amendments to or waivers of the requirements of the DIP Documents, including the DIP Credit Agreements for, among other things, the purpose of adding additional financial institutions as DIP Lenders and reallocating the commitments for the DIP Financing among the DIP Lenders, in each case in such form as the Debtors, the DIP Agent and the DIP Lenders may agree (it being understood that no further approval of the Court shall be required for authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees paid in connection therewith, which fees shall be, and shall be deemed to have been, indefeasibly paid upon entry of this Interim Order and satisfaction of any conditions precedent in the DIP Documents and, thereafter, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, under applicable non-bankruptcy law or otherwise) (w) to amend the First Out DIP Credit Agreement to permit the inclusion of the DIP Revolving Facility having aggregate commitments of up to \$200,000,000, subject to and as contemplated by the terms of the First Out DIP Credit Agreement, (x) for the Required Lenders to grant the Debtors authority to raise the Bonding Accommodation Cap above \$100,000,000, (y) to finalize, execute and enter into the Second Out DIP Credit Agreement and related DIP Documents in form and substance consistent with the descriptions thereof in the Motion and this Interim Order or (z) any other amendments, so long as they do not shorten the maturity of the extensions of credit thereunder or increase the commitments (other than as permitted in clauses (w), (x) and (y) above), the rate of interest or the letter of credit fees payable thereunder),

(iii) the non-refundable payment to the DIP Agent, the Lead Arranger and/or the DIP Lenders, as the case may be, of the fees and any amounts due (or that may become due) in respect of the indemnification obligations referred to in the DIP Credit Agreements (and in the separate letter agreements between them in connection with the DIP Financing) and reasonable costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained as provided for in the DIP Documents, without the need to file retention motions or fee applications, or to provide notice to any party, and

(iv) the performance of all other acts required under or in connection with the DIP Documents.

(d) Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute valid, binding and unavoidable obligations of the Debtors, enforceable against the Debtors in accordance with the terms of the DIP Documents and this Interim Order. No obligation, payment, transfer or grant of security under the DIP Documents or this Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, any Avoidance Action (as defined below) or under any applicable Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or other similar state statute or common law), or subject to any defense, reduction, setoff, recoupment, recharacterization, subordination, disallowance, impairment, cross-claim or counterclaim.

8. *Superpriority Claims.*

(a) Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed claims against the Debtors (without the need to file any proof of claim) with priority over any and all administrative expenses, diminution in value

claims (including all Adequate Protection Obligations) and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 365, 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (collectively the “**Superpriority Claims**”), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtors and all proceeds thereof, subject only to the Fees Carve Out and the Bonding Carve Out to the extent specifically provided for herein. Any payments, distributions or other proceeds received on account of such Superpriority Claims shall be promptly delivered to the DIP Agent to be applied or further distributed by the DIP Agent on account of the DIP Obligations in such order as is specified in the DIP Documents. The Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(b) For purposes hereof, the “**Fees Carve Out**” is an amount equal to the sum of (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code and section 3717 of title 31 of the United States Code (without regard to the notice set forth in (iii) below), (ii) all reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code not to exceed \$75,000 (without regard to the notice set forth in (iii) below) and (iii) allowed and unpaid claims for unpaid fees, costs, and expenses (the “**Professional Fees**”) incurred by persons or firms

retained by the Debtors or the official committee of unsecured creditors in the Cases (the “**Creditors’ Committee**”), if any, whose retention is approved by the Bankruptcy Court pursuant to section 327, 328 or 1103 of the Bankruptcy Code (collectively, the “**Professional Persons**”) that are incurred (A) at any time before delivery by the DIP Agent of a Fees Carve Out Trigger Notice (as defined below), whether allowed by the Bankruptcy Court (by interim or final order) prior to or after delivery of a Fees Carve Out Trigger Notice or payable by the Debtors prior to or after delivery of a Fees Carve Out Trigger Notice (the “**Pre-Trigger Date Fees**”), subject to any limits imposed by this Interim Order, the Final Order (if and when entered) or otherwise on Professional Fees permitted to be incurred in connection with any permitted investigations of claims and defenses against any prepetition secured parties; plus (B) after the occurrence (the “**Fees Carve-Out Trigger Date**”) and during the continuance of an Event of Default and delivery of notice (the “**Fees Carve Out Trigger Notice**”) thereof (which notice may be by email) to the Debtors, the Debtors’ counsel, the U.S. Trustee and lead counsel for the Creditors’ Committee, if any, Professional Fees in an aggregate amount not to exceed \$10,000,000 (the amount set forth in this clause (iii)(B) being the “**Post-EoD Fees Carve Out Amount**”); *provided*, that nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in clauses (iii)(A) or (iii)(B) above, on any grounds. So long as the Fees Carve-Out Trigger Notice shall not have been delivered, the Fees Carve-Out shall not be reduced by the payment of Professional Fees allowed at any time by the Bankruptcy Court (by interim or final order).

(c) Notwithstanding the foregoing, the Fees Carve Out shall not include, apply to or be available for any fees or expenses incurred by any party in connection with (i) the investigation, initiation or prosecution of any claims, causes of action, adversary proceedings or

other litigation (A) against any of the DIP Lenders, the DIP Agent, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders (whether in such capacity or otherwise), or (B) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset to, the obligations and the liens and security interests granted under the DIP Documents, the Existing Credit Documents or the Existing Second Lien Indentures Documents, including, in each case, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550, or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise; (ii) attempts to modify any of the rights granted to the DIP Lenders, the DIP Agent, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders; (iii) attempts to prevent, hinder or otherwise delay any of the DIP Lenders' or the DIP Agent's assertion, enforcement or realization upon any Collateral in accordance with the DIP Documents and the Final Order other than to seek a determination that an Event of Default has not occurred or is not continuing; or (iv) paying any amount on account of any claims arising before the commencement of the Cases unless such payments are approved by an order of the Bankruptcy Court.

(d) For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP Documents, the Fees Carve Out shall be senior to all liens and claims securing the DIP Documents (except with respect to claims of the Bonding L/C Issuing Bank to amounts held in the Bonding Facility Letter of Credit Account and with respect to the Term L/C Issuing Bank to amounts held in the Term Facility Letter of Credit Account (as such terms are defined in the First Out DIP Credit Agreement)), any Adequate Protection Liens (as defined below), the Senior Lender Adequate Protection Claim (as defined below), the Noteholder

Adequate Protection Claims (as defined below), and any and all other liens or claims securing the DIP Facilities (it being understood and agreed that the Fees Carve Out shall be otherwise allocated *pro rata* against the Revolving Facility Collateral and the Term Facility Collateral (each as defined below)).

(e) For purposes hereof, the “**Bonding Carve Out**” is a carve-out only from the Term Facility Collateral entitling certain governmental authorities that are or would be beneficiaries of surety bonds, letters of credit or other financial assurances (each, a “**Bonding Beneficiary**”) making any demand, request or requirement for any surety bond, letter of credit or other financial assurance pursuant to applicable law, in each case, to the extent such surety bond, letter of credit or other financial assurance is to satisfy or replace an amount for which a Debtor is self-bonded (a “**Bonding Request**”) to receive a claim (a “**Bonding Superpriority Claim**”) having priority over any or all administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code (including, without limitation, the Fees Carve Out), but solely allocated against the Term Facility Collateral (excluding amounts held in the Term Facility Letter of Credit Account (as defined in the First Out DIP Credit Agreement)), to satisfy such Bonding Request. The aggregate face amount of all Bonding Facility Letters of Credit, together with the aggregate amount of all Bonding Superpriority Claims, shall not exceed the Bonding Accommodation Cap (as defined in the First Out DIP Credit Agreement). The Debtors shall be authorized to terminate the Bonding Carve Out by issuing and delivering a notice in writing to the DIP Agent (the “**Bonding Carve Out Termination Notice**”), with a copy of any such notice delivered to counsel to each of the Pre-Petition Agent, Second Lien Notes Trustee and Second Lien Noteholder Group. Upon issuance and delivery by the Debtors of the Bonding Carve Out Termination Notice to the DIP Agent, immediately, automatically and without further action, the

Bonding Carve Out will terminate and be permanently reduced to \$0 for all purposes hereunder, and the Bonding Beneficiaries shall thereafter cease to have any rights in respect of the Bonding Carve Out. Except as set forth in this paragraph 8(e), the Debtors may not terminate the Bonding Carve Out.

9. *DIP Liens.* As security for the DIP Obligations, effective and perfected upon the date of entry of this Interim Order and without the necessity of the execution, recordation of filings by the Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the DIP Agent of, or over, the Revolving Facility Collateral, the Term Facility Collateral, the Bonding L/C Collateral and the Term L/C Collateral (each as defined in the First Out DIP Credit Agreement and, collectively, and including all pre- and post-petition property of the Debtors, whether existing on the Petition Date or thereafter acquired, including, without limitation, all cash and cash collateral of the Debtor (whether maintained with the DIP Agent or otherwise) and any investment of such cash and cash collateral, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date (including, without limitation, post-petition intercompany claims against the Debtor and its non-Debtor affiliates), contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property and capital stock of subsidiaries, but excluding (i) Excluded Assets (as defined in the First Out DIP Credit Agreement) and (ii) Avoidance Actions (as defined below) but, subject to entry of the Final Order, including Avoidance Proceeds (as defined below), the “Collateral”) and the proceeds, products, offspring or profits of the same, the following security interests and liens are hereby granted as set forth in this paragraph 9, subject only, to the extent provided for

herein, to the payment of (i) the Bonding Carve Out and (ii) the Fees Carve Out (all such liens and security interests granted to the DIP Agent, for its benefit and for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Documents, the “**DIP Liens**”). All capitalized terms used but not otherwise expressly defined or referenced to another DIP Document in this Paragraph 9 shall have the meanings ascribed to them in the First Out DIP Credit Agreement or the Security and Intercreditor Agreement.

(a) Granting of DIP Liens. Subject in each case to paragraphs 9(b), 9(c), 9(d) and 9(e) below, the following DIP Liens are hereby granted:

(i) DIP Liens Granted to the First Out Term Agent for the Benefit of Term Secured Parties. Pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, the First Out Term Agent, for the benefit of the Term Secured Parties, is hereby granted valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (A) the Term Facility Collateral, (B) the Revolving Collateral, (C) the Bonding L/C Collateral and (D) the Term L/C Collateral, and in each case all proceeds, products, offspring, or profits of same.

(ii) DIP Liens Granted to Revolving Agent for the Benefit of Revolving Secured Parties. Pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, upon the occurrence of the Revolving Facility Effective Date (and subject to the terms of any order of the Court approving the DIP Revolving Facility), the Revolving Agent, for the benefit of the Revolving Secured Parties, will be granted valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (A) the Term Facility Collateral, (B)

the Revolving Collateral, (C) the Bonding L/C Collateral and (D) the Term L/C Collateral, and in each case all proceeds, products, offspring, or profits of same.

(iii) DIP Liens Granted to Term L/C Agent for the Benefit of Term L/C Secured Parties. Pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, the Term L/C Agent, for the benefit of the Term L/C Secured Parties, is hereby granted valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (A) the Term Facility Collateral, (B) the Revolving Collateral, (C) the Bonding L/C Collateral and (D) the Term L/C Collateral, and in each case all proceeds, product, offspring, or profits of same.

(iv) DIP Liens Granted to Bonding L/C Agent for the Benefit of Bonding L/C Secured Parties. Pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, the Bonding L/C Agent, for the benefit of the Bonding L/C Secured Parties, is hereby granted valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (A) the Term Facility Collateral, (B) the Revolving Collateral, (C) the Bonding L/C Collateral and (D) the Term L/C Collateral, and in each case all proceeds, products, offspring, or profits of same.

(v) DIP Liens Granted to the Second Out DIP Agent for the Benefit of Prepetition L/C Rollup Secured Parties. Pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, upon the occurrence of the Second Out Facility Effective Date, the Second Out DIP Agent, for the benefit of the Prepetition L/C Rollup Secured Parties, is hereby granted, as of the Petition Date valid, binding, continuing, enforceable, fully-perfected security interests in and

liens upon (A) the Term Facility Collateral, (B) the Revolving Collateral, (C) the Bonding L/C Collateral and (D) the Term L/C Collateral, and in each case all proceeds, products, offspring, or profits of same.

(b) Relative Priority of DIP Liens. The relative priority of each DIP Lien granted in paragraph 9(a) as against each other DIP Lien granted in paragraph 9(a) shall be as set forth on Exhibit A attached hereto.

(c) Application of Proceeds of DIP Liens. Notwithstanding the DIP Lien priority described in Paragraphs 9(b) and 9(e) of this Interim Order (i) all proceeds of Collateral in connection with the exercise of remedies upon an Event of Default shall be applied to the DIP Obligations and paid to the DIP Lenders in accordance with the waterfall provisions set forth in Section 8.02 of the First Out DIP Credit Agreement and the corresponding provision of the Second Out DIP Credit Agreement (in each case subject to the Security and Intercreditor Agreement). Further, for the avoidance of doubt, to the extent not expressly set forth herein, all rights, priorities, remedies, and obligations as between the First Out DIP Agent and the Second Out DIP Agent and each of their respective DIP Lenders shall be governed by the express terms of the Security and Intercreditor Agreement, which is approved in its entirety by this Interim Order.

(d) Excluded Avoidance Actions. The DIP Liens shall not attach to the Debtors' claims and causes of action pursuant to sections 502(d), 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**"), but, subject only to and effective upon entry of the Final Order, shall attach to any proceeds or property recovered, unencumbered or otherwise the subject of successful Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance**

Proceeds”). For the avoidance of doubt, the Superpriority Claims are payable from and have recourse to the Avoidance Proceeds of the Avoidance Actions.

(e) Liens Junior to Certain Other Liens. The DIP Liens granted pursuant to this Interim Order shall be senior in all respects to the interests in such property of the Pre-Petition Secured Parties arising from current and future liens of the Pre-Petition Secured Parties (including, without limitation, the Adequate Protection Liens), but shall not be senior to or *pari passu* with (i) any valid, perfected and unavoidable interests of other parties arising out of liens, if any, on the Collateral existing immediately prior to the Petition Date that were senior in priority to the liens of the Pre-Petition Secured Parties, or (ii) any valid, perfected and unavoidable interests in the Collateral arising out of liens, if any, that were senior in priority to the liens of the Pre-Petition Secured Parties, as permitted by section 546(b) of the Bankruptcy Code. Pursuant to section 364(c)(3) of the Bankruptcy Code, to the extent permitted by the DIP Credit Agreements, the security interests and liens in favor of the Revolving Agent, First Out Term Agent and Second Out DIP Agent granted hereunder shall be junior to any such valid, perfected, and unavoidable liens in existence immediately prior to the Petition Date described in clauses (i) and (ii) of this paragraph 9(e), or to any such valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

10. Liens Senior to Certain Other Liens. The DIP Liens and the Adequate Protection Liens (as defined below) shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (ii) unless otherwise provided for in the DIP Documents, any liens arising after the Petition Date including, without limitation, any liens or

security interests granted in favor of any federal, state, municipal or other governmental unit (including any regulatory body), commission, board, or court for any liability of the Debtors.

11. *Protection of DIP Lenders' Rights.*

(a) So long as there are any borrowings or letters of credit or other amounts outstanding (other than contingent indemnity obligations as to which no claim has been asserted when all other amounts have been indefeasibly paid in full and no letters of credit are outstanding), or the DIP Lenders have any Commitments (as defined in the First Out DIP Credit Agreement and to be defined similarly in the Second Out DIP Credit Agreement) under the DIP Credit Agreements, the Pre-Petition Secured Parties shall (i) have no right to and shall take no action to foreclose upon or recover in connection with the liens granted thereto pursuant to the Existing Secured Agreements, or this Interim Order, or otherwise seek to exercise or exercise any enforcement rights or remedies against any Collateral, including in connection with the Adequate Protection Liens except to the extent authorized by an order of this Court, (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, Collateral, to the extent such transfer, disposition, sale or release is authorized under the DIP Documents, (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the Collateral unless, solely as to this clause (iii), the DIP Lenders file financing statements or other documents to perfect the liens granted pursuant to this Interim Order, or as may be required by applicable state law to continue the perfection of valid and unavoidable liens or security interests as of the Petition Date and (iv) deliver or cause to be delivered, at the Debtors' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent, the DIP Lenders or other documents necessary to effectuate and/or evidence the

release, termination and/or assignment of liens on any portion of the Collateral subject to any sale or disposition. After the refinancing in full of all Receivables Facility Letters of Credit, the Debtors are authorized to file any termination statements, releases, or other documents necessary to effectuate and/or evidence the release and termination of the Pre-Petition Receivables Facility Agent's liens on or security interest in any portion of the Pre-Petition Collateral; and upon refinancing of the Receivables Facility Letters of Credit (including, without limitation, their cash collateralization), all liens securing all assets (including proceeds, product, offspring or profits of same) pledged thereunder shall be fully released and become part of the Revolving Facility Collateral.

(b) The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the DIP Agent and the DIP Lenders to enforce all of their rights under the DIP Documents (including any cash dominion as provided for in the DIP Documents) and to exercise all rights and remedies under the DIP Documents; *provided*, that any such rights and remedies that are exercisable only upon an Event of Default (other than the giving of any notice, including the Fees Carve Out Trigger Notice) shall require the giving of five Business Days' prior written notice via email to the Debtors and their lead counsel, with copies to the U.S. Trustee and counsel to the Creditors' Committee (which period shall run concurrently with any notice period provided under the DIP Documents) (the "**Default Notice Period**"). Upon receipt, the Debtors shall promptly distribute such notice to the U.S. Trustee and counsel to (i) the Pre-Petition Agent, (ii) the Second Lien Notes Trustee, (iii) counsel to the Second Lien Noteholder Group, (iv) the Massey Notes Trustee and (v) counsel to the Creditors' Committee. In any hearing regarding any exercise of rights or remedies under the DIP Documents (which hearing must take place within the Default Notice Period), the only issue

that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred and is continuing, and the Debtors and the Pre-Petition Secured Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent that such relief would in any way impair or restrict the rights and remedies of the DIP Agent or the DIP Lenders set forth in this Interim Order or the DIP Documents. In no event shall the DIP Agent, the DIP Lenders or the Pre-Petition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral. Further, subject only to and effective upon entry of the Final Order, in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the secured claims of the Pre-Petition Secured Parties.

(c) No rights, protections or remedies of the DIP Agent or the DIP Lenders granted by the provisions of this Interim Order or the DIP Documents shall be limited, modified or impaired in any way by (i) any actual or purported withdrawal of the consent of any party to the Debtors’ authority to continue to use Cash Collateral, (ii) any actual or purported termination of the Debtors’ authority to continue to use Cash Collateral or (iii) the terms of any other order or stipulation related to the Debtors’ continued use of Cash Collateral or the provision of adequate protection to any party.

(d) Neither the DIP Agent nor the DIP Lenders (each in their capacities as such) shall be subject to any obligations under the ICA. Neither the DIP Credit Agreements nor the DIP Obligations shall be subject to the terms of the ICA.

12. *Limitation on Charging Expenses Against Collateral.* Subject only to and effective upon entry of the Final Order, except to the extent of the Fees Carve Out, no expenses of administration of the Cases or any future proceeding that may result therefrom, including

liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the express prior written consent of the DIP Agent, the Pre-Petition Agent, the Second Lien Notes Trustee and the Massey Notes Trustee, as the case may be, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Lenders, or any of the Pre-Petition Secured Parties.

13. *The Cash Collateral.* Due to the inclusion of the Debtors' cash in the Senior Lender Collateral and the Second Priority Collateral (collectively, and together with the Principal Property (as defined in the Massey Convertible Notes Indenture), the "**Pre-Petition Collateral**"), the Debtors' cash and cash equivalents on hand are cash collateral in which the Pre-Petition Agent (on its behalf and on behalf of the Pre-Petition Lenders) and the Second Lien Notes Trustee (on its behalf and on behalf of the Second Lien Noteholders) has a lien or security interest as of the Petition Date within the meaning of section 363(a) of the Bankruptcy Code, except for (a) cash as of the Petition Date deposited in the Debtors' main concentration account (that certain Bank of America, N.A. account ending in -8595) to the extent that it is not perfected Senior Lender Collateral or Second Priority Collateral, (b) the cash proceeds of any shares of Rice Energy, Inc. and (c) cash as of the Petition Date deposited in the bank account of Gray Hawk Insurance Company. All such cash (including, without limitation, all proceeds of Pre-Petition Collateral, and, subject to the approval of the Cross-Collateralization Liens by the Final Order, any cash that is subject to the Cross-Collateralization Liens) is referred to herein collectively as "**Cash Collateral.**"

14. *Use of Cash Collateral.* The Debtors are hereby authorized, subject to the terms and conditions of this Interim Order, to use all Cash Collateral of the Pre-Petition Secured

Parties, and, upon the request of the Debtors, the Pre-Petition Secured Parties are directed promptly to turn over to the Debtors all Cash Collateral received or held by them; *provided*, that the Pre-Petition Secured Parties are granted adequate protection as hereinafter set forth, including, without limitation, in the form of the Adequate Protection Obligations, Adequate Protection Liens and the Cross-Collateralization Liens. The Debtors' right to use Cash Collateral shall terminate automatically:

(a) on the fifth business day after the date hereof unless the closing of the DIP Term Facility in accordance with the DIP Documents shall have occurred;

(b) upon confirmation of a plan of reorganization in any of the Cases other than a plan of reorganization that (i) provides for the termination of the Commitments and the payment in full in cash of the Obligations under the DIP Documents (other than contingent indemnification obligations not yet due and payable) on the Consummation Date (as defined in the First Out DIP Credit Agreement) of such plan of reorganization, (ii) provides for the payment in full in cash and the discharge of the obligations under the Existing Credit Agreement on the Consummation Date of such plan of reorganization, and (iii) provides for releases of the DIP Agent, DIP Lenders, the Pre-Petition Lenders, the Second Lien Notes Trustee, and the Second Lien Noteholders and their respective Representatives from any and all claims against the DIP Agent, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders in connection with the DIP Credit Agreements, the Existing Credit Agreement, and the Second Lien Notes Indentures in a manner consistent with the stipulations set forth in this Interim Order and to the fullest extent permitted by the Bankruptcy Code and applicable law; and

(c) on the earlier of (i) the Maturity Date (as defined in the First Out DIP Credit Agreement and to be defined similarly in the Second Out DIP Credit Agreement) or the earlier acceleration of the Loans (as defined in the First Out DIP Credit Agreement and to be defined similarly in the Second Out DIP Credit Agreement) outstanding under the DIP Credit Agreements, (ii) an acceleration of maturity under the DIP Credit Agreements and the DIP Agent's giving of five Business Days' prior written notice (which shall run concurrently with any notice provided under the DIP Documents) to the Debtors, (iii) failure to meet any Adequate Protection Milestone (as defined below), (iv) a sale of all or substantially all of the assets of the Debtors, (v) any modification or amendment of this Interim Order with respect to Adequate Protection Obligations, the Adequate Protection Milestones, or the Cross-Collateralization Liens for the benefit of the Pre-Petition Lenders (or breach of such Adequate Protection Obligations or Adequate Protection Milestones) without the prior written consent of the Pre-Petition Lenders holding more than 50% of the outstanding principal amount of the Pre-Petition Credit Agreement Debt (the "**Required Pre-Petition Lenders**"), and any modification or amendment of this Interim Order with respect to Adequate Protection Obligations or the Adequate Protection Milestones for the benefit of the Second Lien Noteholders (or breach of such Adequate Protection Obligations or Adequate Protection Milestones) without the prior written consent of the Second Lien Noteholders holding more than 50% of the outstanding principal amount of the Second Lien Notes Debt (the "**Required Second Lien Noteholders**"), and no such consent shall be implied by any other action, inaction or acquiescence by any of the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders, and (vi) the occurrence of

any of the Events of Default or cash collateral use termination triggers set forth in Paragraph 22 of this Interim Order.

15. *Adequate Protection of Pre-Petition Lenders.* The Pre-Petition Lenders are entitled, pursuant to sections 361, 362, 363(e) and 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their respective interests in the Pre-Petition Collateral, including the Cash Collateral, for and equal in amount to the aggregate diminution in the value of their respective interests in the Pre-Petition Collateral, including, without limitation, any such diminution resulting from the sale, lease or use by the Debtors (or other decline in value) of Cash Collateral and any other Pre-Petition Collateral, the priming of the Pre-Petition Agent's security interests and liens in the Pre-Petition Collateral by the DIP Agent and the DIP Lenders pursuant to the DIP Documents and this Interim Order and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Pre-Petition Agent and the Pre-Petition Lenders are hereby granted the following (collectively, the "**Senior Lender Adequate Protection Obligations**"):

(a) Pre-Petition Secured Lender Adequate Protection Liens. The Pre-Petition Agent (for itself and for the benefit of the Pre-Petition Lenders) is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements or other agreements), in the amount of such diminution, a replacement security interest in and lien upon all of the Collateral, *pari passu* with the Massey Convertible Notes Adequate Protection Liens (as defined below) and subject and subordinate only to (i) the security interests and liens granted to the DIP Agent for the benefit of the DIP Lenders in this Interim Order and pursuant to the DIP Documents and any liens on the Collateral to which such liens so granted to the DIP Agent are

junior, (ii) the Fees Carve Out, and (iii) the Bonding Carve Out (the “**Senior Lender Adequate Protection Liens**”).

(b) Continuation of Liens. To the extent replacement liens are not available, the liens granted to the Pre-Petition Lenders under the terms of the Pre-Petition Credit Agreement shall continue in full force and effect and shall continue to secure the obligations of the Debtors under the Pre-Petition Credit Agreement, regardless of whether such obligations were deemed incurred under the Second Out Facility, including any such liens securing obligations that are deemed incurred under the Second Out Facility.

(c) Pre-Petition Secured Lender Section 507(b) Claim. The Pre-Petition Agent, on behalf of itself and the Pre-Petition Lenders, is hereby granted, subject to the Fees Carve Out and the Bonding Carve Out, a superpriority claim as provided for in section 507(b) of the Bankruptcy Code, immediately junior to the Superpriority Claims held by the DIP Agent and the DIP Lenders and senior to all other superpriority claims (other than the Fees Carve Out and the Bonding Carve Out); *provided* that, unless otherwise expressly agreed to in writing by the DIP Agent, the Pre-Petition Agent and the Pre-Petition Lenders shall not receive or retain any payments, property or other amounts in respect of the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder or under the Existing Credit Documents unless and until the DIP Obligations have indefeasibly been paid in cash in full in accordance with the DIP Documents (the “**Senior Lender Adequate Protection Claim**”).

(d) Pre-Petition Secured Lender Interest, Fees and Expenses. The Pre-Petition Agent shall receive from the Debtors (i) immediate cash payment of all accrued and unpaid interest on the Pre-Petition Credit Agreement Debt and letter of credit fees at the non-default rates provided for in the Existing Credit Documents, and all other accrued and unpaid fees and

disbursements (including, but not limited to, fees owed to the Pre-Petition Agent) owing to the Pre-Petition Agent under the Existing Credit Documents and incurred prior to the Petition Date; (ii) current cash payments of all reasonable fees and expenses payable to the Pre-Petition Agent under the Existing Credit Documents, including, but not limited to, the reasonable and documented fees and disbursements of one lead counsel, one local restructuring counsel, additional local counsel for other jurisdictions as needed and consistent with past practice and one financial advisor to represent the interests of the Pre-Petition Agent and the Pre-Petition Lenders; and (iii) current cash payment of all interest on the Pre-Petition Credit Agreement Debt, letter of credit fees and other fees at the non-default rates provided for in the Existing Credit Documents.

(e) Pre-Petition Secured Lender Adequate Protection Milestones. The Pre-Petition Agent, on behalf of itself and the Pre-Petition Lenders, is hereby entitled to performance of those certain case milestones set forth in sections 5.17(e), (g) and (h) of the First Out DIP Credit Agreement as in effect as of the date of entry of this Interim Order (the “**Adequate Protection Milestones**”). Any amendment, modification or extension of the Adequate Protection Milestones shall be binding on the Pre-Petition Lenders only upon the prior written consent of the Required Pre-Petition Lenders.

(f) Pre-Petition Secured Lender Reporting. The Pre-Petition Agent, on behalf of itself and the Pre-Petition Lenders, is hereby entitled to receive all financial reporting and other reports and notices delivered by the Borrower to the DIP Agent or any DIP Lender in connection with the DIP Facilities; *provided*, that a Pre-Petition Lender shall not be entitled to receive any such information unless it is subject to a confidentiality agreement in form and substance reasonably acceptable to the Borrower.

16. *Adequate Protection of Massey Convertible Noteholders.* The Massey Convertible Noteholders are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their security interest in any Principal Property (as defined in the Massey Convertible Notes Indenture) for and equal in amount to the aggregate diminution in the value of the Massey Convertible Noteholders' interests in the Principal Property in these Cases, including, without limitation, any such diminution resulting from the sale, lease or use by the Debtors (or other decline in value) of any Principal Property, the priming of the Massey Convertible Noteholders' security interests and liens in any Principal Property by the DIP Agent and the DIP Lenders pursuant to the DIP Documents and this Interim Order and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Massey Notes Trustee and the Massey Convertible Noteholders are hereby granted the following (collectively, the "**Massey Convertible Notes Adequate Protection Obligations**"):

(a) Massey Convertible Noteholder Adequate Protection Liens. The Massey Notes Trustee (for itself and for the benefit of the Massey Convertible Noteholders) is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements or other agreements), in the amount of such diminution, a replacement security interest in and lien upon all of the Pre-Petition Collateral (other than any Cash Collateral), *pari passu* with the Senior Lender Adequate Protection Liens and subject and subordinate only to (i) the security interests and liens granted to the DIP Agent for the benefit of the DIP Lenders in this Interim Order and pursuant to the DIP Documents, and any liens on the Collateral to which such

liens so granted to the DIP Agent are junior; (ii) the Fees Carve Out and (iii) the Bonding Carve Out (the “**Massey Convertible Notes Adequate Protection Liens**”).

(b) Waiver of Massey Convertible Noteholder Section 507(b) Claim. In exchange for the Massey Convertible Notes Adequate Protection Obligations, the Massey Notes Trustee and the Massey Convertible Noteholders are deemed to and hereby waive any right to assert any claims under section 507(b) of the Bankruptcy Code that they might have based on any use and diminution in the value of any Principal Property.

17. *Adequate Protection of Second Lien Noteholders.* The Second Lien Notes Trustee and the Second Lien Noteholders are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their respective interests in the Pre-Petition Collateral, including the Cash Collateral, for and equal in amount to the aggregate diminution in the value of their respective interests in the Pre-Petition Collateral including, without limitation, any such diminution resulting from the sale, lease or use by the Debtors (or other decline in value) of Cash Collateral and any other Pre-Petition Collateral, the priming of the Second Lien Noteholders’ security interests and liens in the Pre-Petition Collateral by the DIP Agent and the DIP Lenders pursuant to the DIP Documents and this Interim Order and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Second Lien Notes Trustee and the Second Lien Noteholders are hereby granted the following (collectively, the “**Noteholder Adequate Protection Obligations**” and, together with the Senior Lender Adequate Protection Obligations and the Massey Convertible Notes Adequate Protection Obligations, the “**Adequate Protection Obligations**”):

(a) Second Lien Noteholder Adequate Protection Liens. The Second Lien Notes Trustee (for itself and for the benefit of the Second Lien Noteholders) is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements or other agreements), in the amount of such diminution, a replacement security interest in and lien upon all of the Collateral, subject and subordinate only to (i) the security interests and liens granted to the DIP Agent for the benefit of the DIP Lenders in this Interim Order and pursuant to the DIP Documents, and any liens on the Collateral to which such liens so granted to the DIP Agent are junior; (ii) the Senior Lender Adequate Protection Liens, (iii) the Massey Convertible Notes Adequate Protection Liens (if any), (iv) the Fees Carve Out and (v) the Bonding Carve Out (the “**Noteholder Adequate Protection Liens**” and together with the Senior Lender Adequate Protection Liens and the Massey Convertible Notes Adequate Protection Liens, the “**Adequate Protection Liens**”).

(b) Continuation of Liens. To the extent replacement liens are not available, the liens granted to the Second Lien Notes Trustee and the Second Lien Noteholders under the terms of the Second Lien Indentures shall continue in full force and effect and shall continue to secure the Obligations of the Debtors under the Second Lien Indentures, and such liens held by the Second Lien Notes Trustee shall be junior in priority to and subject to all liens granted hereunder and shall be governed by the Existing Secured Agreements, including, without limitation, the ICA, as set forth in Paragraph 25 hereof.

(c) Second Lien Noteholder Section 507(b) Claim. The Second Lien Notes Trustee, on behalf of itself and the Second Lien Noteholders, is hereby granted, subject to the Fees Carve Out, the Bonding Carve Out and the Senior Lender Adequate Protection Claim, a

superpriority claim as provided for in section 507(b) of the Bankruptcy Code, immediately junior to the Superpriority Claims held by the Pre-Petition Agent and the Pre-Petition Lenders and senior to all other superpriority claims (other than those arising under the DIP Facilities and/or supported by the Fee Carve Out, Bonding Carve Out and the Senior Lender Adequate Protection Claim); *provided* that (i) notwithstanding section 1129(a)(9)(A) of the Bankruptcy Code, a plan of reorganization in any of the Cases may provide for the satisfaction of any Noteholder Adequate Protection Claims with consideration other than cash to the extent that Required Pre-Petition Lien Lenders agree to payment of any Senior Lender Adequate Protection Claims in consideration other than cash pursuant to such plan of reorganization, (ii) that the mix of non-cash consideration used to satisfy any Noteholder Adequate Protection Claims shall be the same as the mix of non-cash consideration used to satisfy any Senior Lender Adequate Protection Claims unless the Required Second Lien Noteholders consent to different treatment by accepting the proposed plan of reorganization and (iii) unless otherwise expressly agreed to in writing by the DIP Agent, the Second Lien Notes Trustee and the Second Lien Noteholders shall not receive or retain any payments, property or other amounts in respect of the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder or under the Existing Credit Documents unless and until the DIP Obligations have indefeasibly been paid in cash in full in accordance with the DIP Documents (the “**Noteholder Adequate Protection Claim**”).

(d) Second Lien Noteholder Interest, Fees and Expenses. For so long as the Second Lien Notes Trustee and the Second Lien Noteholder Group support and do not assert any objection to the relief set forth in this Interim Order or the Final Order, interest on the Second Lien Notes Debt shall continue to accrue at the non-default rate provided for in the Existing Second Lien Indentures Documents, which accrued interest shall be payable to the extent that the

Second Lien Noteholders are determined to be entitled to such payment under section 506(b) of the Bankruptcy Code by a court of competent jurisdiction. Furthermore, for so long as the Second Lien Notes Trustee and the Second Lien Noteholder Group support and do not assert any objection to the relief set forth in this Interim Order or the Final Order, the Second Lien Notes Trustee and the Second Lien Noteholder Group shall receive from the Debtors immediate cash payment of all reasonable accrued and unpaid fees and disbursements including, but not limited to, fees owed to the Second Lien Notes Trustee under the Existing Second Lien Indenture Documents and the Second Lien Noteholder Group under that certain letter agreement, dated as of July 22, 2015 (the “**Second Lien Noteholder Group Fee Letter**”), between the Borrower and Kirkland & Ellis LLP, as counsel to the Second Lien Noteholder Group, that certain letter agreement dated as of July 2015, between the Borrower and Houlihan Lokey Capital, Inc., as financial advisor to the Second Lien Noteholder Group, and that certain letter agreement dated as of July 31, 2015, between Borrower, and Kutak Rock LLP, as local counsel to the Second Lien Noteholder Group, among others, incurred prior to the Petition Date, and current cash payments of all reasonable fees and expenses payable to the Second Lien Notes Trustee under the Second Lien Indentures Documents and the Second Lien Noteholder Group under the Second Lien Noteholder Group Fee Letter, provided that the professional fees for the Second Lien Notes Trustee under the Second Lien Indentures Documents and the Second Lien Noteholder Group shall be limited to the reasonable fees and disbursements of Kirkland & Ellis LLP, as lead counsel, Kutak Rock LLP, as local restructuring counsel and Houlihan Lokey Capital, Inc., as financial advisor, and such other professional as may be subsequently agreed by the Debtors to represent the interests of the Second Lien Notes Trustee and the Second Lien Noteholder Group.

(e) Second Lien Noteholder Adequate Protection Milestones. For so long as the Second Lien Notes Trustee and the Second Lien Noteholder Group support and do not assert any objection to the relief set forth in this Interim Order or the Final Order, the Second Lien Notes Trustee (for itself and the Second Lien Noteholders) is hereby entitled to performance of the Adequate Protection Milestones. Any amendment, modification or extension of the Adequate Protection Milestones shall be binding on the Second Lien Notes Trustee and the Second Lien Noteholders only upon the prior written consent of the Required Second Lien Noteholders.

(f) Second Lien Noteholder Reporting. For so long as the Second Lien Notes Trustee and the Second Lien Noteholder Group support and do not assert any objection to the relief set forth in this Interim Order or the Final Order, the Second Lien Notes Trustee, on behalf of itself and the Second Lien Noteholders, is hereby entitled to receive all financial reporting and other reports and notices delivered by the Borrower to the DIP Agent or any DIP Lender in connection with the DIP Facilities; *provided*, that a Second Lien Noteholder shall not be entitled to receive any such information unless it is subject to a confidentiality agreement in form and substance reasonably acceptable to the Borrower.

18. *Consent to Priming and Adequate Protection.*

(a) In exchange for and on account of the Pre-Petition Agent's and the Pre-Petition Lenders' consent to the priming liens granted hereunder on Senior Lender Collateral and to the Debtors' continued use of Cash Collateral, all claims arising under the Existing Credit Documents shall be secured by valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (the "**Pre-Petition Credit Agreement Debt Cross-Collateralization Liens**") all pre- and post-petition property of the Debtors, whether existing on the Petition Date

or thereafter acquired, that, on or as of the Petition Date, is not subject to valid, perfected and non-avoidable liens securing the Pre-Petition Credit Agreement Debt, including, without limitation, any Excluded Assets (as defined in the Existing Credit Agreement (collectively, the **"First Lien Unencumbered Property"**), junior in priority and subject only to (i) the Fees Carve Out, (ii) the Bonding Carve Out, (iii) the DIP Liens, (iv) the Adequate Protection Liens on such First Lien Unencumbered Property and (v), any valid, perfected and non-avoidable liens on such First Lien Unencumbered Property in existence as of the Petition Date.

(b) In exchange for and on account of the Second Lien Notes Trustee's and the Second Lien Noteholders' consent to the priming liens granted hereunder on Second Priority Collateral (as defined in the ICA) and to the Debtors' continued use of Cash Collateral, all claims arising under the Existing Second Lien Indentures Documents shall be secured by valid, binding, continuing, enforceable, fully-perfected security interests in and liens upon (the **"Second Lien Notes Debt Cross-Collateralization Liens"** and, together with the Pre-Petition Credit Agreement Debt Cross-Collateralization Liens, the **"Cross-Collateralization Liens"**) all pre- and post-petition property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on the Petition Date, is not subject to valid, perfected and non-avoidable liens securing the Second Lien Notes Debt (the **"Second Lien Unencumbered Property"**), junior in priority and subject only to (i) the Fees Carve Out, (ii) the Bonding Carve Out, (iii) the DIP Liens, (iv) the Adequate Protection Liens on such Second Lien Unencumbered Property, (v) any valid, perfected and non-avoidable liens on such Second Lien Unencumbered Property in existence as of the Petition Date, and (vi) the Pre-Petition Credit Agreement Debt Cross-Collateralization Liens on such Unencumbered Property.

19. *Reservation of Rights of Pre-Petition Secured Parties.* Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including, without limitation, section 506(b) thereof, the Court finds that the adequate protection provided herein, including, without limitation, in the form of the Adequate Protection Obligations, Adequate Protection Liens and Cross-Collateralization Liens is reasonable and sufficient to protect the interests of the Pre-Petition Secured Parties; *provided* that any of the Pre-Petition Secured Parties may request further or different adequate protection, and the Debtors or any other party may, consistent with the terms of the ICA (the terms of which, for the avoidance of any doubt, shall not be affected or modified in any way by this Interim Order) or any other Existing Secured Agreement, contest any such request. Except as expressly provided herein, nothing contained in this Interim Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to any Pre-Petition Secured Party, the DIP Agent or any DIP Lender, including, without limitation, rights of a party to a swap agreement, securities contract, commodity contract, forward contract or repurchase agreement with a Debtor to assert rights of setoff or other rights with respect thereto as permitted by law (or the right of a Debtor to contest such assertion).

20. *Perfection of DIP Liens, Adequate Protection Liens and Cross-Collateralization Liens.*

(a) Subject to the provisions of paragraph 11(a) above, the DIP Agent, the DIP Lenders and the Pre-Petition Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the Debtors, as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark

filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over assets, or take any other action, in each case, in order to validate and perfect the liens and security interests granted to them hereunder. Whether or not the DIP Agent on behalf of the DIP Lenders, the Pre-Petition Agent on behalf of the Pre-Petition Lenders, the Second Lien Notes Trustee on behalf of the Second Lien Noteholders or the Massey Notes Trustee on behalf of the Massey Convertible Noteholders shall, in their sole discretion, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to it hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, except as otherwise provided herein, and not subject to challenge dispute or subordination, at the time and on the date of entry of this Interim Order and subject to the terms hereof. Upon the request of the DIP Agent, each of the Pre-Petition Secured Parties, without any further consent of any party, is authorized and directed to take, execute, deliver and file such instruments (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens.

(b) A certified copy of this Interim Order may, in the discretion of the DIP Agent, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording. For the avoidance of doubt, the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the DIP Agent to take all actions, as applicable, referenced in this subparagraph (b) and in the immediately preceding subparagraph (a).

(c) Notwithstanding anything to the contrary in the Motion, the DIP Documents or this Interim Order, for purposes of this Interim Order, in no event shall the Collateral include or the DIP Liens, Adequate Protection Liens or Cross-Collateralization Liens granted under this Interim Order attach to, any lease, license, contract or agreement or other property right, to which any Debtor is a party, or any of such relevant Debtor's rights or interests thereunder, if and for so long as the grant of such security interest would constitute or result in: (x) the abandonment, invalidation, unenforceability or other impairment of any right, title or interest of any Debtor therein, or (y) in a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract or agreement or other property right pursuant to any provision thereof, unless, in the case of each of clauses (x) and (y), the applicable provision is rendered ineffective by applicable non-bankruptcy law or the Bankruptcy Code (such leases, licenses, contracts or agreements or other property rights are collectively referred to as the "**Specified Contracts**"); *provided that*, the foregoing shall not preclude any counterparty to a Specified Contract from an opportunity to be heard in this Court on notice with respect to whether applicable non-bankruptcy law or the Bankruptcy Code renders such provision ineffective. Notwithstanding the foregoing, the DIP Liens, Adequate Protection Liens and Cross-Collateralization Liens and the Superpriority Claims, the Senior Lender Adequate Protection Claim and the Noteholder Adequate Protection Claim shall in all events attach to all proceeds, products, offspring or profits from all sales, transfers, dispositions or monetizations of any and all Specified Contracts.

21. *Real Property Leases.* As a requirement and precondition to the DIP Lenders' willingness to lend and in furtherance of the Superpriority Claims provided for in Paragraph 8 of this Interim Order and pursuant to the DIP Documents, under which DIP Obligations are payable

from and have recourse to all of the Debtors' pre- and post-petition property including, among other things, all of the Debtors' Real Property Leases (as defined in the First Out DIP Credit Agreement), the Term Secured Parties, Revolving Secured Parties, Bonding L/C Secured Parties and Term L/C Secured Parties (collectively, the "**First Out DIP Lenders**") shall have the following protections with respect to the Debtors' Real Property Leases, regardless of whether any particular Real Property Lease or group of Real Property Leases constitutes Collateral, which protections shall be enforced by the First Out DIP Agent as authorized, approved, and granted pursuant to the provisions of this Interim Order and in accordance with the terms of the First Out DIP Credit Agreement, *provided, however*, that upon the indefeasible repayment in full in cash of all DIP Obligations owed to the First Out DIP Lenders pursuant to the applicable DIP Documents (the "**F/O DIP Obligations**") and in accordance with the provisions of this Interim Order, the Second Out DIP Lenders shall then be deemed to have the protections afforded the First Out DIP Lenders under this Paragraph 21 with respect to the Real Property Leases, which protections shall then be enforced by the Second Out DIP Agent as authorized, approved, and granted pursuant to the provisions of this Interim Order and, at such time, all references to the First Out DIP Agent and the First Out DIP Lenders solely in the following subparagraphs of this Paragraph 21 shall be deemed substituted in their entirety by reference to the Second Out DIP Agent or the Second Out DIP Lenders, as applicable:

(a) Remedies Upon an Event of Default. If an Event of Default (as defined in the First Out DIP Credit Agreement) shall have occurred and be continuing, the First Out DIP Agent shall, with respect to any Real Property Lease or group of Real Property Leases to which any of the Debtors are party, be permitted, and is hereby authorized, approved, and granted:

(i) to exercise the Debtors' rights pursuant to section 365(f) of the Bankruptcy Code with respect to any such Real Property Lease(s) and, subject to this Court's approval after notice and hearing, assign any such Real Property Lease(s) in accordance with section 365 of the Bankruptcy Code notwithstanding any language to the contrary in any of the applicable lease documents or executory contracts;

(ii) to require any Debtor to complete promptly, pursuant to section 363 of the Bankruptcy Code, subject to the rights of the First Out DIP Lenders to credit bid, an Asset Disposition (as defined in the First Out DIP Credit Agreement) of any such Real Property Lease(s) in one or more parcels at public or private sales, at any of the First Out DIP Agent's offices or elsewhere, for cash, at such time or times and at such price or prices and upon such other terms as the First Out DIP Agent may deem commercially reasonable;

(iii) access to the leasehold interests of the Debtors in any such Real Property Lease(s) for the purpose of marketing such property or properties for sale;

(iv) (a) find an acceptable (in the First Out DIP Agent's good faith and reasonable discretion) replacement lessee, which may include the First Out DIP Agent or any of its affiliates, to whom such Real Property Lease(s) may be assigned, (b) hold, and manage all aspects of, an auction or other bidding process to find such acceptable replacement lessee, (c) in connection with any such auction, agree, on behalf of the Loan Parties (as defined in the First Out DIP Credit Agreement), to a break-up fee or to reimburse reasonable fees and

expenses (subject to Bankruptcy Court approval of such fees and expenses) of any stalking horse bidder up to an amount not to exceed 3.00% of the purchase price of such Real Property Lease, if necessary, (d) notify the Debtors of the selection of any replacement lessee pursuant to this Paragraph 21(a), upon receipt of which the Debtors shall promptly (1) file a motion seeking, on an expedited basis, approval of the Debtors' assumption and assignment of such Real Property Lease(s) to such proposed assignee, and (2) cure any defaults, if any, that have occurred and are continuing under such Real Property Lease(s) to the extent required by the Court (subject to the First Out DIP Lenders' right to cure defaults as set forth in Paragraph 21(e) of this Interim Order); or

(v) direct the Debtors to (a) assign any such Real Property Lease(s) to the First Out DIP Agent and First Out DIP Lenders as Collateral securing the DIP Obligations, subject to clause (b), if applicable, (b) seek this Court's approval of the assumption of any such Real Property Lease(s) to the extent required under the Bankruptcy Code to assign such lease or leases as Collateral, and (c) promptly cure any default that has occurred and is continuing under such Real Property Lease(s) to the extent required by the Court; *provided*, that any assignment of any such Real Property Lease(s) as Collateral securing the DIP Obligations shall not impair the Debtors' ability to subsequently assume (if not already assumed) and assign such Real Property Lease(s) pursuant to section 365 of the Bankruptcy Code or to enjoy the protections of section 365(f) of the Bankruptcy Code with respect to any such assignment, *provided*, that the foregoing

clauses (i) through (v) shall not apply to Real Property Leases that are rejected on the effective date of an Acceptable Reorganization Plan.

(b) Right to Credit Bid. Prior to any sale or assignment of any Real Property Lease or group of Real Property Leases, the Debtors shall first provide 30 days' prior written notice to the First Out DIP Agent (unless such notice provision is waived by the First Out DIP Agent). During such notice period, or thereafter until Bankruptcy Court approval of a sale or assignment, the First Out DIP Agent, on behalf of the applicable First Out DIP Lenders, shall be permitted to credit bid forgiveness of some or all of the outstanding F/O DIP Obligations (in an amount equal to at least the consideration offered by any other party in respect of such assignment) outstanding under the DIP Term Facility as consideration in exchange for any such Real Property Lease(s); *provided*, that to the extent the Borrower is entitled to retain a portion of the total consideration paid in respect of such assignment in accordance with the First Out DIP Credit Agreement, the applicable portion of the consideration shall be paid in cash. In addition, in connection with the exercise of any of the First Out DIP Agent's rights pursuant to the DIP Credit Agreements or this Interim Order to direct or compel a sale or assignment of any Real Property Lease(s), the First Out DIP Agent, on behalf of the applicable First Out DIP Lenders, shall be permitted to credit bid forgiveness of some or all of the outstanding DIP Obligations (in an amount equal to at least the consideration offered by any other party in respect of such sale or assignment) as consideration in exchange for such Real Property Lease(s). Pursuant to section 364(e) of the Bankruptcy Code, absent a stay pending appeal, the First Out DIP Lenders' right to credit bid shall not be affected by the reversal or modification on appeal of the Debtors' authorization pursuant to this Interim Order or the Final Order to obtain credit and incur debt as and in accordance with the terms set forth herein. Notwithstanding anything to the contrary

herein, the foregoing right of the First Out DIP Agent set forth in this Paragraph 21(b) shall not apply to Real Property Leases that are sold or assigned as contemplated in the Agreed Business Plan (as defined in the First Out DIP Credit Agreement).

(c) Special Rights with Respect to Proposed Rejections of Real Property Leases. Unless all DIP Obligations shall have indefeasibly been satisfied in full in cash (and, with respect to outstanding letters of credit issued or deemed issued pursuant to the DIP Credit Agreements, cash collateralized in accordance with the provisions of the DIP Credit Agreements), the Debtors shall not seek, and it shall constitute an Event of Default and terminate the right of the Debtors to use Cash Collateral if any of the Debtors seeks, pursuant to section 365 of the Bankruptcy Code, to reject or otherwise terminate (including, without limitation, as a result of the expiration of the assumption period provided for in section 365(d)(4) of the Bankruptcy Code to the extent applicable, the last day of such period being the “**Automatic Rejection Date**”) (x) a Material Lease (as defined in the First Out DIP Credit Agreement) or (y) during the continuance of an Event of Default under the First Out Credit Agreement, a Real Property Lease, in each case, without first providing 30 days’ prior written notice to the First Out DIP Agent (unless such notice provision is waived by the First Out DIP Agent in its sole discretion) during which time the First Out DIP Agent shall be permitted to find an acceptable (in the First Out DIP Agent’s good faith and reasonable discretion) replacement lessee (which may include the First Out DIP Agent or its affiliates) to whom such lease may be assigned. If a prospective assignee is not found within such 30-day notice period, the Debtors may proceed to reject such lease. If such a prospective assignee is timely found, the Debtors shall (i) not seek to reject such lease, (ii) promptly withdraw any previously filed rejection motion, (iii) promptly file a motion seeking expedited relief and a hearing on the earliest court

date available for purposes of assuming such lease and assigning it to such prospective assignee and (iv) cure any defaults that have occurred and are continuing under such lease unless the Borrower and the First Out DIP Agent agree that any such cure obligation is overly burdensome on the cash position of the Debtors with such agreement not to be unreasonably withheld; *provided*, that this Paragraph 21(c) shall not apply to Real Property Leases that are rejected (A) as contemplated in the Agreed Business Plan or (B) on the effective date of an Acceptable Reorganization Plan (as defined in the First Out DIP Credit Agreement). For the avoidance of doubt, it is understood and agreed that on or prior to the 30th day prior to the Automatic Rejection Date (as defined in the First Out DIP Credit Agreement), the Debtors shall have delivered (and hereby agree to deliver) written notice to the First Out DIP Agent of each outstanding Real Property Lease that they intend to reject (including, without limitation, through automatic rejection on the Automatic Rejection Date, to the extent applicable) from and after the date of such notice (or, if applicable, notice that the Debtors will seek to extend the Automatic Rejection Date as provided in section 365(d)(4) of the Bankruptcy Code); *provided*, that if the Debtors fail to deliver any such notice to the First Out DIP Agent prior to such date with respect to any such Real Property Lease (or a notice indicating that no such Real Property Leases shall be rejected), the Debtors shall be deemed, for all purposes hereunder, to have delivered notice to the First Out DIP Agent as of such date that they intend to reject all outstanding Real Property Leases.

(d) Assumption Orders. Any order of this Court approving the assumption of any Real Property Lease shall specifically provide that the applicable Debtor shall be authorized to assign such Real Property Lease pursuant to, and to enjoy the protections of, section 365(f) of the Bankruptcy Code subsequent to the date of such assumption.

(e) DIP Lenders' Right to Cure Defaults. If any of the Debtors is required to cure any monetary defaults under any Real Property Lease pursuant to any order of this Court or otherwise in connection with any assumption or assumption and assignment of any such Real Property Lease pursuant to section 365(f) of the Bankruptcy Code, and such monetary default is not, within five business days of the receipt by such Debtor of notice from the First Out DIP Agent pursuant to the applicable provision(s) of the First Out DIP Credit Agreement or any other notice from the First Out DIP Agent requesting the cure of such monetary default, cured in accordance with the provisions of such applicable court order as arranged by the First Out DIP Agent, the First Out DIP Agent may cure any such monetary defaults on behalf of the applicable Debtor(s).

22. *Preservation of Rights Granted Under this Interim Order.*

(a) Other than the Fees Carve Out and the Bonding Carve Out, no claim or lien having a priority superior to or *pari passu* with those granted by this Interim Order to the DIP Agent and the DIP Lenders shall be granted or allowed while any portion of the DIP Financing (or any refinancing thereof) or the Commitments thereunder or the DIP Obligations remain outstanding, and the DIP Liens shall not be (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code or (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise. For the avoidance of doubt, no lien or security interest shall be granted to any other party in any of the Specified Contracts without first granting such lien or security interest to the DIP Agent, which shall be deemed Term Facility Collateral.

(b) Unless all DIP Obligations shall have been indefeasibly paid in full in cash (and, with respect to outstanding letters of credit issued pursuant to the DIP Credit Agreements, cash collateralized on terms and conditions acceptable to the DIP Agent in accordance with the provisions of the DIP Credit Agreements) and the Adequate Protection Obligations shall have been paid in full, the Debtors shall not seek, and it shall constitute an Event of Default and terminate the right of the Debtors to use any and all Cash Collateral if the Debtors seek, or if there are entered, (i) any material modifications, amendments or any extensions of this Interim Order without the prior written consent of the DIP Agent, and no such consent shall be implied by any other action, inaction or acquiescence by the DIP Agent; (ii) an order converting or dismissing the Cases without the prior written consent of the Required Lenders (as defined in the First Out DIP Credit Agreement), the Required Pre-Petition Lenders and the Required Second Lien Noteholders; (iii) an order appointing a chapter 11 trustee in the Cases without the prior written consent of the Required Lenders (as defined in the First Out DIP Credit Agreement), the Required Pre-Petition Lenders and the Required Second Lien Noteholders; or (iv) an order appointing an examiner with enlarged powers in the Cases (beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code) without the prior written consent of the Required Lenders (as defined in the First Out DIP Credit Agreement), the Required Pre-Petition Lenders and the Required Second Lien Noteholders, and, in the case of orders obtained by parties other than one of the Debtors, such orders have not within seven business days been reversed, vacated or stayed. Notwithstanding the entry of any order dismissing the Cases under section 1112 of the Bankruptcy Code or otherwise, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the Superpriority Claims, the Adequate Protection Obligations, Adequate Protection Liens, Cross-Collateralization Liens, priming liens, security

interests, replacement security interests and administrative claims granted to the DIP Agent and the DIP Lenders and, as applicable, the Pre-Petition Secured Parties pursuant to this Interim Order shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Obligations shall have been paid and satisfied in full (and that such Superpriority Claims, the Adequate Protection Obligations, Adequate Protection Liens, Cross-Collateralization Liens, priming liens, security interests, replacement security interests and administrative claims, shall, notwithstanding such dismissal, remain binding on all parties in interest) and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (i) above.

(c) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacation or stay shall not affect (i) the validity of any DIP Obligations, the DIP Documents or Adequate Protection Obligations incurred or the DIP Liens, Adequate Protections Liens and Cross-Collateralization Liens granted prior to the actual receipt of written notice by the DIP Agent, the Pre-Petition Agent, the Second Lien Notes Trustee, or the Massey Notes Trustee, as applicable, of the effective date of such reversal, modification, vacation or stay or (ii) the validity or enforceability of any lien or priority authorized or created hereby or pursuant to the DIP Credit Agreements with respect to any DIP Obligations or Adequate Protection Obligations. Notwithstanding any such reversal, modification, vacation or stay, any use of Cash Collateral or any DIP Obligations or Adequate Protection Obligations incurred by the Debtors to the DIP Agent, the DIP Lenders or the Pre-Petition Secured Parties prior to the actual receipt of written notice by the DIP Agent, the Pre-Petition Agent, the Second Lien Notes Trustee or the Massey Notes Trustee, as applicable, of the

effective date of such reversal, modification, vacation or stay shall be governed in all respects by the original provisions of this Interim Order, and the DIP Agent, the DIP Lenders and the Pre-Petition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code, this Interim Order and pursuant to the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Unless all obligations under the Pre-Petition Credit Agreement and the Senior Lender Adequate Protection Obligations, shall have been paid and performed in full, the Debtors shall not seek to use, and it shall constitute an Event of Default and terminate the right of the Debtors to use, any and all Cash Collateral if the Debtors seek, or if there are entered, any modifications or termination of the Senior Lender Adequate Protection Obligations, the Senior Lender Adequate Protection Liens and/or the Pre-Petition Credit Agreement Debt Cross-Collateralization Liens without the prior consent of Required Pre-Petition Lenders and, with respect to any such modification or termination sought by a party other than one of the Debtors, such modification or termination is not reversed, vacated or stayed within three business days of its entry.

(e) Unless all obligations under the Second Lien Notes, and the Noteholder Adequate Protection Obligations, shall have been paid and performed in full, the Debtors shall not seek, and it shall constitute an Event of Default and terminate the right of the Debtors to use any and all Cash Collateral if the Debtors seek, or if there are entered, any modifications or termination of the Noteholder Adequate Protection Obligations, the Noteholder Adequate Protection Liens and/or the Second Lien Notes Debt Cross-Collateralization Liens without the prior consent of the Required Second Lien Noteholders and, with respect to any such

modification or termination sought by a party other than one of the Debtors, such modification or termination is not reversed, vacated or stayed within three business days of its entry.

(f) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the Superpriority Claims and all other rights and remedies of the DIP Agent and the DIP Lenders granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, (ii) the entry of an order approving the sale of any Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents) or (iii) the entry of an order confirming a chapter 11 plan in the Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Cases, in any successor cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the Superpriority Claims and all other rights and remedies of the DIP Agent and the DIP Lenders granted by the provisions of this Interim Order (including, without limitation, with respect to the rights of the DIP Agent as to the Debtors' Real Property Leases as set forth in Paragraph 21 of this Interim Order) and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full in cash

23. *Effect of Stipulations on Third Parties.* The stipulations and admissions contained in this Interim Order, including, without limitation, in paragraph 4 of this Interim Order, shall be binding upon the Debtors and any successor thereto (including, without

limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) in all circumstances. The stipulations and admissions contained in this Interim Order, including, without limitation, in paragraph 4 of this Interim Order, shall be binding upon all other parties in interest, including, without limitation, any committee appointed in these Cases and any other person or entity acting on behalf of the Debtors' estates, unless and except to the extent that (a) a party in interest has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in paragraph 24) by the date that is 60 days after entry of the Final Order and (b) if such a challenge or claim is brought, the date of a final judgment on such challenge or claim or, in each case, such later date (i) as has been agreed to, in writing, by the Pre-Petition Agent or the Second Lien Notes Trustee (as applicable) in its sole discretion or (ii) as has been ordered by the Court (the "**Challenge Period**"), (A) challenging the validity, enforceability, priority or extent of the Stipulated Debt or the Stipulated Security Interests or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, "**Claims and Defenses**") against any of the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders or their respective affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (each, a "**Representative**" and, collectively, the "**Representatives**") in connection with matters related to the Existing Credit Documents, the Existing Second Lien Indentures Documents, the Stipulated Debt, the Senior Lender Collateral and the Second Priority

Collateral, and (C) there is a final order in favor of the plaintiff sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter; *provided that*, (x) as to the Debtors, all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date and (y) any challenge or claim shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be forever deemed waived, released and barred. If no such adversary proceeding or contested matter is timely filed, (a) to the extent not heretofore repaid, the Stipulated Debt and all related obligations of the Debtors shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense or avoidance, for all purposes in the Cases and any subsequent chapter 7 cases, (b) the Stipulated Security Interests shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected, not subject to recharacterization, subordination or avoidance and (c) the Stipulated Debt and all related obligations of the Debtors, Stipulated Security Interests, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee and the Second Lien Noteholders shall not be subject to any other or further challenge by any party in interest seeking to exercise the rights of the Debtors' estates, including, without limitation but only upon expiration of the Challenge Period (as defined below), any successor thereto (including, without limitation, any chapter 7 or 11 trustee appointed or elected for the Debtors). If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph 4 of this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any committee appointed in the Cases and on any other person or entity, except to the extent that such findings and admissions were expressly challenged in such

adversary proceeding or contested matter. Nothing in this Interim Order vests or confers on any Person (as defined in the Bankruptcy Code), including any committee appointed in the Cases, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation, Claims and Defenses with respect to the Existing Credit Documents, the Existing Second Lien Indentures Documents or the Stipulated Debt.

24. *Limitation on Use of DIP Financing Proceeds and Collateral.* Notwithstanding anything herein or in any other order by this Court to the contrary, no borrowings, letters of credit, Cash Collateral, Collateral, the Fees Carve Out and/or the Bonding Carve Out may be used, in the Cases or any other proceeding of any kind, or in any jurisdiction, to (a) object and/or challenge the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset to, any amount due under the DIP Documents, the Existing Credit Documents or the Existing Second Lien Indentures Documents, the validity, perfection, priority, extent or enforceability of any amount due under the DIP Documents, the Existing Credit Documents or the Existing Second Lien Indentures Documents, or the liens or claims granted under this Interim Order, the DIP Documents, the Existing Credit Documents or the Existing Second Lien Indentures Documents, or the Adequate Protection Liens, the Senior Lender Adequate Protection Claim or the Cross-Collateralization Liens including, in each case, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550, or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise, (b) investigate, assert or prosecute any Claims and Defenses or causes of action against the DIP Agent, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders and/or their respective Representatives, (c) prevent, hinder or otherwise delay the DIP Agent's, the DIP Lenders', the Pre-Petition Agent's, the Pre-Petition

Lenders', the Second Lien Notes Trustee's or the Second Lien Noteholders' assertion, enforcement or realization against or upon the Cash Collateral or the Collateral in accordance with the DIP Documents, the Existing Credit Documents, the Existing Second Lien Indentures or this Interim Order, (d) seek to modify any of the rights granted to the DIP Agent, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Lenders, the Second Lien Notes Trustee or the Second Lien Noteholders hereunder or under the DIP Documents or the Existing Secured Agreements, in each of the foregoing cases without such applicable parties' prior written consent, (e) attempt to directly or indirectly modify any of the rights granted to the DIP Lenders or the DIP Agent, (f) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court and (ii) in accordance with the DIP Documents and the 13-Week Projections; *provided that*, (A) the Debtors may, in all cases set forth above, challenge the assertion or existence of an Event of Default hereunder or under the DIP Facilities, and (B) advisors to the Creditors' Committee may investigate the claims and liens granted pursuant to the Existing Credit Documents or the Existing Second Lien Indentures Documents during the Challenge Period and prosecute any causes of action in connection therewith at an aggregate expense for such investigation and prosecution not to exceed \$50,000.

25. *Priorities Among Pre-Petition Secured Parties.* Notwithstanding anything to the contrary herein or in any other order of this Court, in determining the relative priorities and rights of the Pre-Petition Secured Parties (including, without limitation, the relative priorities and rights of the Pre-Petition Secured Parties with respect to the Adequate Protection Obligations granted hereunder), such priorities and rights shall continue to be governed by the Existing Secured Agreements including, without limitation, the ICA.

26. *Maintenance of Letters of Credit.* To the extent permitted by the DIP Documents, the Debtors are authorized to maintain and renew letters of credit issued or deemed issued under the DIP Credit Agreements on an uninterrupted basis, in accordance with the same practices and procedures as were in effect prior to the Petition Date, and to take all actions reasonably appropriate with respect thereto, on an uninterrupted basis and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

27. *Citi as Collateral Agent.* To the extent that (i) Citicorp North America, Inc., in its capacity as Collateral Agent under the Existing Credit Documents, or (ii) Wilmington Trust, National Association, in its capacity as Series B Collateral Agent under the Existing Second Lien Indentures Documents, is the secured party under any Control Agreements (as defined in the Existing Credit Documents and Existing Second Lien Indentures Documents), listed as loss payee under the Debtors' insurance policies as required under the Existing Credit Documents and Existing Second Lien Indentures Documents or is the secured party under any other Existing Credit Document or Existing Second Lien Indentures Document, Citi, in its role as Collateral Agent under the DIP Credit Agreements, is also deemed to be the secured party under such Control Agreements, loss payee under the Debtors' insurance policies and the secured party under any other Existing Credit Document or Existing Second Lien Indentures Document and shall act in that capacity and shall turn over and distribute any proceeds recovered or received first, for the benefit of the DIP Lenders in accordance with the DIP Credit Agreements and second, subsequent to indefeasible payment in full of all DIP Obligations, for the benefit of the Pre-Petition Secured Parties under the Existing Secured Agreements.

28. *Payments Held in Trust.* Except as expressly permitted in this Interim Order or the DIP Documents, in the event that any person or entity receives any payment on account of a security interest in Collateral, receives any proceeds of Collateral or receives any other payment with respect thereto from any other source prior to indefeasible satisfaction of all DIP Obligations under the DIP Documents, and termination of the Commitments in accordance with the DIP Documents, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of Collateral in trust for the benefit of the DIP Agent and DIP Lenders and shall immediately turn over such proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Interim Order.

29. *Credit Bidding.*

(a) The DIP Agent shall, acting at the direction of the Required Lenders (as defined in the First Out DIP Credit Agreement), have the right to credit bid up to the full amount of the DIP Obligations in any sale of the Collateral as provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise.

(b) Subject to entry of the Final Order and the prior indefeasible satisfaction and discharge in full of all DIP Obligations and the termination of the Commitments thereunder, the full amount of the Pre-Petition Credit Agreement Debt then outstanding may be used to “credit bid” for the assets and property of the Debtors (to the extent such assets are Senior Lender Collateral or secured by Senior Lender Adequate Protection Liens (but with respect thereto, solely to the extent of the value of the Senior Lender Adequate Protection Liens)) as

provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise. For the avoidance of doubt, no amount on account of the Pre-Petition Credit Agreement Debt may be credit bid in respect of any Collateral until all DIP Obligations have first been indefeasibly satisfied and paid in cash in full and the Commitments thereunder have been terminated.

30. *Bank Liens.* To the extent any of the Debtors' Banks (as such term is defined in the Debtors' Cash Management Motion [ECF # 25]) have valid and enforceable rights of setoff or liens in cash present in a Bank Account (as such term is defined in the Debtors' Cash Management Motion) on the Commencement Date (the "**Commencement Date Cash**"), and to the extent such cash is thereafter used by such Debtor subject to further agreement between the Debtor and such Bank, such Bank is hereby granted (a) a replacement lien in the Debtors' cash, and such replacement lien shall be of the same extent and priority as such Bank's interest, as of the Commencement Date, in the Commencement Date Cash subsequently used by the Debtors; and (b) an administrative expense claim to the extent of any diminution of Commencement Date Cash after the Commencement Date.

31. *Notice of Lender Professional Fees.* A copy of each invoice submitted to the Debtors for professional fees and expenses (to the extent incurred by such professionals after the Effective Date (as defined in the First Out DIP Credit Agreement)) the payment of which is authorized by paragraphs 7(c)(iii), 15(d) or 17(b) above (such fees and expenses, the "**Lender Professional Fees**") shall be substantially simultaneously sent to the U.S. Trustee, counsel for the DIP Agent and counsel for any Creditors' Committee (collectively, the "**Lender**

Professional Fee Notice Parties”). The invoices for such Lender Professional Fees shall include the number of hours billed and a reasonably detailed description of the services provided and the expenses incurred by the applicable professional; *provided, however*, that any such invoice (i) may be redacted to protect privileged, confidential or proprietary information and (ii) shall not be required to contain individual time detail; *provided, further*, that the U.S. Trustee reserves the right to seek additional information and relief from the Court. The Debtors and the Lender Professional Fee Notice Parties shall have 7 days after receipt of the applicable invoice to submit (to the applicable professional, the Debtors and the Lender Professional Fee Notice Parties) a written objection to the reasonableness of such Lender Professional Fees, which must contain a specific basis for the objection and quantification of the undisputed amount of the fees and expenses invoiced, and failure to object with specificity or to quantify the undisputed amount of the invoice subject to such objection will constitute a waiver of any objection to such invoice. None of the Lender Professional Fees shall be subject to Court approval or required to be maintained in accordance with the U.S. Trustee Guidelines, and no recipient of any payment on account thereof shall be required to file with respect thereto any interim or final fee application with the Court. Payment of Lender Professional Fees shall not be delayed based on any objections thereto, and the relevant professional shall only be required to disgorge amounts objected to upon being “so ordered” pursuant to a final non-appealable order of this Court.

32. *No Waiver Under the ICA.* Subject to paragraph 11(d) hereof, nothing herein shall be considered a waiver of any rights of any party under the ICA.

33. *Retention of Jurisdiction.* This Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

34. *Order Governs.* In the event of any inconsistency between the provisions of this Interim Order and the DIP Documents, the provisions of this Interim Order shall govern.

35. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including, without limitation, the DIP Agent, the DIP Lenders, the Pre-Petition Secured Parties, any committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estates of the Debtors) and shall inure to the benefit of the DIP Agent, the DIP Lenders, the Pre-Petition Secured Parties, and the Debtors, and their respective successors and assigns; *provided, however*, that the DIP Agent and the DIP Lenders shall have no obligation to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan under the DIP Credit Agreements or to exercise any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Agent and the DIP Lenders shall not solely by reason thereof be deemed to be in control of the properties or operations of or participating in the management of the Debtors, be deemed to have authority to determine the manner in which any Debtor's operations are conducted or be deemed to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any similar federal or state statute).

36. *Final Hearing.* The Final Hearing is scheduled for September 1, 2015 at 11:00 a.m. before this Court.

37. *Notice.* The Debtors shall promptly mail copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Interim Hearing, and to any other party that has filed a request for notices with this Court and to any committee after the same has been appointed, or such committee's counsel, if the same shall have been appointed.

38. *Objections.* Any objection to the granting of the relief requested by the Motion on a final basis shall be filed with the Court on or before 4:00 p.m., Eastern Time, on August 20, 2015 (the "**Objection Deadline**"), and served, so as to be received by the Objection Deadline, upon: (a) the Office of the United States Trustee for the Eastern District of Virginia, 701 East Broad Street, Suite 4304, Richmond, Virginia 23219 (Attn: Robert B. Van Arsdale, Esq. and Hugh M. Bernstein, Esq.); (b) (i) the Debtors, c/o Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq. and Thomas A. Wilson, Esq.); and (iii) Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.); (c) counsel to the DIP Agent and the Pre-Petition Agent, (i) Davis Polk and Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Damon P. Meyer, Esq.) and (ii) McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219 (Attn: Dion W. Hayes, Esq., Sarah B. Boehm, Esq. and K. Elizabeth Sieg, Esq.); (d) counsel to the Second Lien Noteholder Group, Kirkland & Ellis LLP, (i) 601 Lexington Avenue, New York, New York 10022 (Attn: Stephen E. Hessler, Esq. and Brian E. Schartz, Esq.) and (ii) 300 North LaSalle, Chicago, Illinois 60654 (Attn: Gregory F. Pesce, Esq.); and (e) counsel to the Pre-Petition Receivables Facility Agent,

Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Debora

A. Hoehne, Esq. and Debra A. Dandeneau, Esq.).

Dated: Richmond, Virginia
4 August, 2015


UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

Respectfully submitted,

/s/ Tyler P. Brown
Tyler P. Brown (VSB No. 28072)
J.R. Smith (VSB No. 41913)
Henry P. (Toby) Long, III (VSB No. 75134)
Justin F. Paget (VSB No. 77949)
HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219
Telephone: (804) 788-8200
Facsimile: (804) 788-8218

and

David G. Heiman
Carl E. Black
Thomas A. Wilson
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

*Proposed Counsel to the Debtors
and Debtors in Possession*

**CERTIFICATION OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Tyler P. Brown

Exhibit A

Relative Priority of DIP Liens

Lien priorities prior to the effectiveness of the Future ABL Facility¹:

	Term Facility Collateral²	Revolving Facility Collateral	Bonding L/C Collateral	Term L/C Collateral
Obligations³ in respect of the Term Facility	1 st	1 st	2 nd	2 nd
Obligations in respect of the Term L/C Facility	2 nd	3 rd	3 rd	1 st
Obligations in respect of the Bonding Accommodation Facility⁴	3 rd	2 nd	1 st	3 rd
Obligations in respect of the Second Out Facility, if applicable	4 th	4 th	4 th	4 th

Lien priorities after the effectiveness of the Future ABL Facility:

	Term Facility Collateral	Revolving Facility Collateral	Bonding L/C Collateral	Term L/C Collateral
Obligations in respect of the Term Facility	1 st	2 nd	3 rd	2 nd
Obligations in respect of the Revolving Facility	2 nd	1 st	2 nd	3 rd
Obligations in respect of the Term L/C Facility	3 rd	4 th	4 th	1 st
Obligations in respect of the Bonding Accommodation Facility	4 th	3 rd	1 st	4 th
Obligations in respect of the Second Out Facility, if applicable	5 th	5 th	5 th	5 th

¹ Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Superpriority Secured Debtor-in-Possession Credit Agreement.

² As used herein, the Term Facility Collateral shall exclude the Term L/C Collateral and the Revolving Facility Collateral shall exclude the Bonding L/C Collateral (which Term L/C Collateral and Bonding L/C Collateral is subject to differing waterfalls as set forth in separate columns).

³ As used herein, Obligations covers loans, advances, disbursements, letters of credit and similar borrowings and instruments under the applicable facility, as well as customary fees, agency costs, expense reimbursement provisions and indemnifications relating to the applicable facility. Obligations in respect of the Revolving Facility also includes obligations under other Secured Agreements (e.g. secured cash management and hedge agreements).

⁴ As used herein, the Bonding Accommodation Facility shall include only Bonding Facility Letters of Credit (and obligations related thereto as set forth in Footnote 3).

Exhibit B

Substitution and Release Agreement

WEIL DRAFT
8/4/15

COLLATERAL SUBSTITUTION, RELEASE, AND CONVEYANCE AGREEMENT

This Collateral Substitution, Release, and Conveyance Agreement is dated as of August [], 2015 (this "Agreement"), by and among General Electric Capital Corporation ("GECC"), as Administrative Agent, Lender, Swing Line Lender and LC Lender under the Credit Agreement (defined below), ANR Second Receivables Funding, LLC (the "SPE Borrower"), as Borrower under the Credit Agreement, Alpha Coal Sales Co., LLC, as originator (in such capacity, the "Originator") and as servicer (in such capacity, the "Servicer") under the Credit Agreement, and Alpha Natural Resources, Inc. (the "Parent"). This Agreement is acknowledged and consented to by GE Asset Based Master Note LLC ("GEABMN"), as a Lender under the Credit Agreement, and Webster Business Credit Corporation ("WBCC"), as LC Lender and Lender under the Credit Agreement.

RECITALS

A. The SPE Borrower, GECC, GEABMN and WBCC are parties to (i) the Credit and Security Agreement, dated as of September 19, 2014 (as heretofore amended, the "Credit Agreement"), by and between the SPE Borrower, as borrower, the financial institutions signatory thereto as Lenders, GECC, as Administrative Agent, Lender, Swing Line Lender and LC Lender, and WBCC and (ii) certain other Transaction Documents (as defined in the Credit Agreement). Capitalized terms used herein but not defined herein have the meanings ascribed thereto in the Credit Agreement.

B. Pursuant to the Receivables Sale Agreement, dated as of September 19, 2014, by and between the SPE Borrower and the Originator, the Originator conveyed to the SPE Borrower certain Receivables originated by it (including, without limitation, all interests in and relating to such Receivables, which interests were conveyed by the Sellers to the Originator pursuant to the Sale Agreement, dated as of September 19, 2014, by and among the sellers party thereto and the Originator). As part of the consideration for its purchases of the Receivables from the Originator, the SPE Borrower, from time to time, caused the LC Lenders to issue Letters of Credit on behalf of the Originator or one or more of its affiliates pursuant to the terms of the Credit Agreement. The Receivables and their proceeds are the exclusive property of the SPE Borrower.

C. The Servicer and the SPE Borrower are parties to that certain Servicing Agreement, dated as of September 19, 2014 (the "Servicing Agreement"), pursuant to which the Servicer has instructed all obligors with respect to the Receivables to make payments in respect of the Receivables only (i) by check or money order mailed to a post office box in the name of the Borrower (the "Lockbox") or (ii) by wire transfer or moneygram directly to a bank account in the name of the SPE Borrower (the "Lockbox Account"). Collections received into the Lockbox Account are deposited directly into the Collection Account and applied pursuant to Section 2.8(c) of the Credit Agreement.

D. On August 3, 2015 (the "Petition Date"), each of the Originator, the Servicer, the Parent, and certain of their affiliates other than the SPE Borrower (collectively, the "Debtors") filed voluntary petitions (collectively, the "Petition") for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy

Court for the Eastern District of Virginia (the "Bankruptcy Court"). Pursuant to an order of the Bankruptcy Court, the Debtors' chapter 11 cases are being jointly administered under Case No. 15-33896 (KRH) (the "Chapter 11 Cases").

E. The commencement of the Chapter 11 Cases by the Debtors constitutes a Termination Event under the Credit Agreement and, as a result, an Event of Servicer Termination under the Servicing Agreement. Upon the occurrence of a Termination Event, the Administrative Agent may declare the Facility Maturity Date and an Account Control Event to have occurred.

F. Upon and after the occurrence of such Termination Event, (a) the Lenders and the LC Lenders have no further commitment to provide any financial accommodations under the Credit Agreement, (b) the SPE Borrower has no further obligation under the Transaction Documents to purchase or acquire new Receivables, and (c) the SPE Borrower is not permitted to, and shall not purchase or acquire any new Receivables. As of the Petition Date, the outstanding amount of Receivables owned by the SPE Borrower totaled approximately \$207,180,916, and the SPE Borrower had cash in the Lockbox Account in the aggregate amount of \$1,000,000.

G. On each Business Day while a Termination Event is continuing, the Credit Agreement requires that Collections be deposited (in accordance with the priority of payments in Section 2.8(c) of the Credit Agreement) into the LC Collateral Account until the amount on deposit in such account is equal to the product of (i) the undrawn amounts of all outstanding Letters of Credit and (ii) 1.05. As of the date hereof, Letters of Credit in the undrawn face amount of \$102,790,766 are issued and outstanding.

H. The Debtors propose to enter into that certain Superpriority Secured Debtor-in-Possession Credit Agreement dated as of August [], 2015 by and among the Parent, the Debtors party thereto, the Lenders party thereto and Citibank, N.A., as Administrative Agent and Collateral Agent (the "DIP Credit Agreement"). In connection with the financing provided under the DIP Credit Agreement, the Debtors have requested GECC, GEABMN, WBCC and the SPE Borrower to amend the Credit Agreement to allow, subject to the terms and conditions set forth herein, (1) the substitution of the Back-to-Back LC (as hereinafter defined) in lieu of deposits of Collections into the LC Collateral Account and (2) on or after the Release Date (as hereinafter defined), the conveyance to the Originator of the Receivables, all proceeds of the Receivables, the Lockbox and the SPE Borrower's interest in the Lockbox Account and the Collection Account.

I. As provided herein, the Originator and the Parent shall cause the Back-to-Back LC to be issued to GECC, as Administrative Agent under the Credit Agreement. As consideration for the agreement of GECC, the Lenders and the LC Lenders to accept the Back-to-Back LC and release Borrower Collateral under the terms of this Agreement, the SPE Borrower agrees that GECC may retain cash proceeds of the Receivables in an amount equal to \$5,140,000 as provided in Paragraph 6 to secure the obligations of the SPE Borrower to pay Fees, including, without limitation, Fees due to the Administrative Agent and each Lender, LC Lender Fees and fronting fees due to LC Lenders, Reimbursement Obligations, and those

obligations that survive the termination of the Credit Agreement and the other Transaction Documents on the Release Date.

AGREEMENT

1. **Incorporation of Recitals.** The above recitals are hereby made a part of the Agreement, and the SPE Borrower, the Servicer, the Originator and the Parent finally and irrevocably admit, stipulate, acknowledge, and agree that each of the Recitals is true and correct. In addition, the SPE Borrower, the Servicer, the Originator and the Parent finally and irrevocably admit, stipulate, acknowledge, and agree that the SPE Borrower has no further obligation under the Transaction Documents to purchase or acquire new Receivables, and the SPE Borrower agrees that it shall not purchase or acquire any new Receivables under the Transaction Documents.

2. **SPE Borrower's Bank Accounts.** Except as provided herein, from and after the Petition Date, neither the SPE Borrower nor the Servicer shall deposit any funds representing proceeds of Receivables (including, for the avoidance of doubt, amounts received by the SPE Borrower pursuant to Section 2.8(c)(x) of the Credit Agreement) into any account other than the Lockbox Account or the Collection Account.

3. **Back-to-Back Letter of Credit.** The Originator will cause to be issued and delivered to GECC, as Administrative Agent for the benefit of the LC Lenders, a letter of credit issued by Citibank, N.A., as the letter of credit issuing bank under the DIP Credit Agreement, in form and substance conforming to the form attached hereto as Exhibit A (the "Back-to-Back LC") in the face amount of \$107,930,304.30. GECC's receipt of the Back-to-Back LC shall be deemed to satisfy the requirement under Section 2.8 of the Credit Agreement to cash collateralize the Letters of Credit. The SPE Borrower, the Parent and the Originator hereby covenant to the Administrative Agent that they will use commercially reasonable efforts to replace the outstanding Letters of Credit as soon as practicable. GECC agrees not to draw on the Back-to-Back LC (i) with respect to any amount representing the Administration Fee (as defined in the Back-to-Back LC) unless the SPE Borrower, the Originator or the Parent has failed to pay such Administration Fee on the date due in accordance with Exhibit B hereto and (ii) with respect to any other amount (other than Reimbursement Obligations arising from a drawing under a Letter of Credit) unless the SPE Borrower, the Originator or the Parent has failed to pay such amount on or before the first Business Day following the Business Day on which GECC invoices the SPE Borrower (with a copy to the Originator and the Parent) for such amount.

4. **Waiver of Event of Servicer Termination and Account Control Event; Agreement to Continue Servicing.** (a) GECC, GEABMN and WBCC hereby waive any Event of Servicer Termination resulting from the filing of the Petition. Furthermore, for so long as there is no breach of this Agreement by the SPE Borrower, the Originator, the Servicer or the Parent, GECC and WBCC hereby agree to forbear from sending a notice to the Account Bank or the Lockbox Processor that any Account Control Event has occurred as a result of the filing of the Petition.

(b) The Servicer hereby agrees to continue performing all of its obligations as Servicer under the Servicing Agreement and to continue to be bound under the terms thereof until the Release Date (as defined in Paragraph 7 hereof). The Servicer further acknowledges and agrees that all funds constituting proceeds of Receivables that are from time to time on deposit in the Lockbox Account are to be deposited into the Collection Account on each Business Day. In addition, to the extent that the Servicer determines that funds received in the Lockbox Account or the Lockbox do not constitute proceeds of Receivables, the Servicer shall promptly advise the Administrative Agent, and the Administrative Agent will, by the end of the Business Day following the Business Day on which the Servicer has advised the Administrative Agent of such funds, direct the release thereof from the Collection Account to an account designated by the Originator.

5. Application of Collections. The SPE Borrower, the Administrative Agent, the undersigned Lenders, and the LC Lenders hereby amend Section 2.8(c)(vi) of the Credit Agreement by deleting the text thereof in its entirety and replacing it with the following:

“(vi) sixth, if (A) the Facility Maturity Date has occurred or any Termination Event or Incipient Termination Event has occurred and is continuing and (B) the LC Participation Amount is greater than \$0, to the LC Collateral Account for the benefit of the LC Lenders and the Lenders, until the amount on deposit in the LC Collateral Account is equal to the LC Deposit Amount; provided, with respect to this clause (B), that if the Back-to-Back LC (as defined in the Collateral Substitution, Release and Conveyance Agreement dated as of August [], 2015 (the “CSRCA”)) has been delivered to the Administrative Agent on or before such day, then all amounts on deposit in the LC Collateral Account and the Specified Account shall (x) first, be paid to the Administrative Agent to reduce the amount of any unpaid Reimbursement Obligations and unpaid fees and expenses of the Administrative Agent as of such date to zero, (y) second, be paid to the Administrative Agent on account of the Retained Amount (as defined in the CSRCA) to the extent that the aggregate amounts previously paid to the Administrative Agent pursuant to this clause (y) on any prior day are less than the Retained Amount, and (z) third, paid to the Borrower for conveyance to the Originator in accordance with Paragraph 8 of the CSRCA;”

6. Retained Amount. As additional consideration for the agreement of GECC, the Lenders and the LC Lenders to accept the Back-to-Back LC and release Borrower Collateral under the terms of this Agreement, the SPE Borrower agrees that GECC may retain cash proceeds of the Receivables in an amount equal to \$5,140,000 (the “Retained Amount”) to secure the obligations of the SPE Borrower, including, without limitation, the SPE Borrower’s obligation to pay Fees, including, without limitation, Fees due to the Administrative Agent and each Lender, LC Lender Fees and fronting fees due to LC Lenders, Reimbursement Obligations, and those obligations that survive the termination of the Credit Agreement and the other Transaction Documents on the Release Date. The SPE Borrower agrees that the security interest of the Administrative Agent under the Credit Agreement shall continue in the Retained Amount

after any release of other collateral pursuant to Paragraph 7. The Administrative Agent shall deposit funds representing the Retained Amount in a segregated deposit account or other account of the Administrative Agent to be held as collateral for such obligations. Any portion of the Retained Amount that has not been applied to pay such obligations as of the later of (i) the effective date of the Debtors' plan of reorganization in the Chapter 11 Cases and (ii) the second (2nd) anniversary of the Petition Date shall be returned to the Originator by the Administrative Agent on such date without further demand required therefor or other action required with respect thereto; provided, however, if any suits, actions, proceedings or claims are pending or threatened against any Indemnified Person asserting any damages, losses or liabilities that are Indemnified Amounts, then the Administrative Agent may continue to hold the Retained Amount as collateral until the resolution of any such suit, action, proceeding or claim at which time such Retained Amounts may be applied to any Indemnified Amounts then owing. Upon the return of the portion of the Retained Amount to the Originator by the Administrative Agent pursuant hereto, the security interest of the Administrative Agent in the Retained Amount or any portion thereof shall be automatically released on such date.

7. Release of Borrower Collateral. Each of the Administrative Agent, the Lenders and the LC Lenders hereby agrees that upon (and only upon) the occurrence of the Release Date (as defined below), the Borrower Collateral shall be released as follows:

(a) Automatically and without further action, any and all of the Administrative Agent's security interests in and liens on the Borrower Collateral (other than the cash proceeds thereof constituting the Retained Amount) granted by or arising under the Credit Agreement or any other Transaction Document shall be terminated, released and discharged.

(b) Except as expressly provided herein and for those provisions of the Credit Agreement and the Transaction Documents that by their terms expressly survive the termination or discharge thereof, the Credit Agreement and the other Transaction Documents shall, without further action, automatically terminate and be of no further force or effect, and the SPE Borrower, the Originator, the Parent, and the Sellers shall have no further obligations, liabilities, and indebtedness of any kind to the Administrative Agent or the Secured Parties arising under or in connection with the Credit Agreement or the Transaction Documents, and shall be released and discharged from any and all obligations, covenants and agreements under the Credit Agreement and the Transaction Documents. For the avoidance of doubt, the Back-to-Back LC shall survive such termination and discharge.

(c) The SPE Borrower and the Servicer are authorized to prepare all UCC termination statements, amendments, and releases as the SPE Borrower or the Servicer may reasonably deem necessary or desirable in connection with the termination of the security interests and liens set forth in Paragraph 7(a) above, and to file such UCC termination statements, amendments, and releases on or after the Release Date.

(d) Without limiting the foregoing, all remaining Receivables and proceeds of Receivables, including all funds held in the Collection Account and the LC

Collateral Account, shall be released to the SPE Borrower for conveyance to the Originator in accordance with Paragraph 8 hereof.

The "Release Date" is the later of (1) the date on which the Back-to-Back LC has been issued and delivered to GECC and (2) the date the Administrative Agent has received the full Retained Amount.

8. Conveyance of Receivables, Proceeds, and Bank Account by the SPE Borrower to the Originator. Any amounts released to the SPE Borrower pursuant to Section 2.8(c)(vi) of the Credit Agreement (as amended by this Agreement) or pursuant to Paragraph 6 or 7 hereof shall be conveyed to the Originator, and the Servicer shall promptly transfer such amounts to an account designated by the Originator. On the Release Date, at the request of the Originator, the SPE Borrower shall take all actions as may be necessary to assign the Lockbox Account to the Originator and transfer the Lockbox Account into the name of the Originator and to take any and all other actions as may be necessary or appropriate at the request of the Originator to transfer ownership of the Receivables and the proceeds thereof to the Originator.

9. Further Assurances. At the request of the SPE Borrower or the Servicer, the Administrative Agent shall promptly execute and/or endorse such additional instruments and other writings, and take such other action, as the SPE Borrower or the Servicer may reasonably request to effect or evidence the satisfaction of the Borrower Obligations, the termination of the Credit Agreement and the other Transaction Documents, or the release of any liens or security interests in favor of the Administrative Agent referred to in Paragraph 7(a) above. The Administrative Agent shall not be required to take any additional actions unless and until it receives from the SPE Borrower the Retained Amount in full.

10. No Release of Rights. Except as provided in this Agreement, prior to the Release Date all the terms and conditions of the Credit Agreement and the other Transaction Documents, including, without limitation, all rights and remedies of the Administrative Agent and the other Secured Parties thereunder shall continue in full force and effect. The parties hereto agree that on the Release Date, a Termination Date with respect to the Transaction Documents shall be deemed to have occurred.

11. Conditions to Effectiveness. This Agreement shall be effective upon satisfaction of the following conditions:

(a) Each of the parties has executed a counterpart to this Agreement.

(b) Other than the Chapter 11 Cases, there shall exist no action, suit, investigation, litigation or proceeding affecting the SPE Borrower, the Originator, the Servicer, any Seller or the Parent pending or threatened before any Governmental Authority that purports to affect the legality, validity or enforceability of this Agreement or the transactions to be effected hereby.

12. Representations and Warranties. Each party hereto represents and warrants as follows:

(a) Authorization. The execution, delivery and performance of this Agreement by such party have been duly authorized by all necessary corporate or limited liability company action (as applicable).

(b) No Conflict. The execution, delivery and performance of this Agreement by such party do not and will not (i) contravene such party's charter or by-laws or its limited liability company or operating agreement, as applicable or any applicable law, or (ii) result in or require the creation of any lien upon or with respect to any of its properties.

(c) Enforceability. This Agreement is a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

13. Amendments. This agreement may be amended, modified or waived only in a writing signed by each of the parties hereto.

14. Counterparts; Headings. This agreement may be executed by each party hereto on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one agreement. Delivery of an executed counterpart by facsimile or electronic mail shall be equally effective as delivery of an original executed counterpart. Headings in this Agreement are for reference only and shall not form part of this Agreement.

15. Binding Effect. This Agreement shall be binding on and shall inure solely to the benefit of the parties hereto and their respective successors and assigns, and no other Person shall have any rights herein as a third party beneficiary or otherwise.

16. Assignment. Neither party may assign this Agreement or any interest in this Agreement or delegate any obligations under this Agreement without the prior written consent of the other party; *provided* that GECC may assign this Agreement or any interest in this Agreement, or delegate any obligations under this Agreement in connection with an assignment or delegation of any right, title or interest under the Credit Agreement or any Transaction Document that is (i) permitted under the terms of the Credit Agreement or (ii) to any affiliate of GECC.

17. Notices. All notices under this Agreement shall be effective if delivered in the manner and at the applicable address specified for such party in the Transaction Documents, with copy provided to the Office of the United States Trustee for Region 4, counsel to the Debtors, and counsel to the lenders under the DIP Credit Agreement.

18. Governing Law; Jury Trial Waiver; Jurisdiction.

(a) This Agreement shall be governed by and construed in accordance with the law of the State of New York.

(b) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM

(WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(c) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Bankruptcy Court, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined by the Bankruptcy Court; *provided, however*, if it is determined that the Bankruptcy Court does not have jurisdiction, or the Bankruptcy Court declines to exercise jurisdiction, the parties hereto hereby irrevocably and unconditionally submit to the nonexclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in New York City, and any appellate court from any thereof. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction.

(d) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or Federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party hereto irrevocably consents to service of process in the manner provided for notices in Paragraph 17 hereof. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed by their respective officers as of the day and year first above written.

GENERAL ELECTRIC CAPITAL CORPORATION, as Administrative Agent, Lender, Swing Line Lender and LC Lender under the Credit Agreement

By: _____
Name:
Title:

ANR SECOND RECEIVABLES FUNDING, LLC, as Borrower under the Credit Agreement

By: _____
Name:
Title:

ALPHA COAL SALES CO., LLC, as Originator and as Servicer

By: _____
Name:
Title:

ALPHA NATURAL RESOURCES, INC.

By: _____
Name:
Title:

ACKNOWLEDGED AND AGREED TO BY:

WEBSTER BUSINESS CREDIT CORPORATION,
as LC Lender and as Lender

By: _____
Name:
Title:

GE ASSET BASED MASTER NOTE LLC,
as LC Lender and as Lender

By: _____
Name:
Title:

EXHIBIT A

BACK-TO-BACK LC

EXHIBIT B

ADMINISTRATION FEE SCHEDULE

On the first (1st) Business Day of each calendar month, the Administration Fee shall be due and payable with respect to each Letter of Credit in an amount equal to the product of (i) 2.25%, (ii) one-twelfth, (iii) the lesser of (x) 1.0 and (y) a fraction, the numerator of which is the number of days such Letter of Credit was outstanding during the preceding calendar month and the denominator of which is 30, and (iv) the aggregate face amount of such Letter of Credit.