

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**In re:**

**ARCH COAL, INC., et al.,**

Debtors.<sup>1</sup>

**Chapter 11**

**Case No. 16-40120-705**

**(Jointly Administered)**

**[Related to Docket Nos. 12, 55]**

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 362(d), 363(b)(1), 363(f),  
363(m), 364(c)(1), 364(c)(2), 364(d), 364(e) AND 365 (i) AUTHORIZING CERTAIN  
DEBTORS TO CONTINUE SELLING AND CONTRIBUTING RECEIVABLES AND  
RELATED RIGHTS PURSUANT TO A SECURITIZATION FACILITY,  
(ii) MODIFYING THE AUTOMATIC STAY AND (iii) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”) of Arch Coal, Inc. and its subsidiaries that are debtors and debtors in possession (collectively, the “**Debtors**”) in these cases (the “**Chapter 11 Cases**”) for interim and final orders, pursuant to sections 105, 362(d), 363(b)(1), 363(f), 363(m), 364(c)(1), 364(c)(2), 364(d), 364(e) and 365 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”):

(1) authorizing certain Debtors to (a) enter into, (b) continue selling, contributing and/or servicing certain trade receivables (including collections, proceeds and certain other interests related thereto, the “**Receivables**”) in accordance with the terms of and (c) otherwise perform under (i) that certain Second Amended and Restated Receivables Purchase Agreement (as further

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<sup>1</sup> The Debtors are listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

amended, restated, supplemented or otherwise modified, the “**RPA**”<sup>2</sup> among Arch Receivable Company, LLC (“**Arch Receivable**”) as Seller, Arch Coal Sales, Inc. as initial Servicer (in such capacity, the “**Servicer**”), the various Conduit Purchasers, Related Committed Purchasers, LC Participants and Purchaser Agents from time to time party thereto (collectively with the LC Bank, the “**Securitization Purchasers**”), PNC Bank, National Association (“**PNC Bank**”) as Administrator (in such capacity, the “**Administrator**”) and LC Bank (in such capacity, the “**LC Bank**”), (ii) that certain Amended and Restated Purchase and Sale Agreement (as further amended, restated, supplemented or otherwise modified from time to time, the “**PSA**”) among the entities listed on Schedule 1 thereto as Originators (the “**Subsidiary Originators**”)<sup>3</sup> and Arch Coal, Inc. (together with the Subsidiary Originators, the “**Originators**”) and (iii) that certain Amended and Restated Sale and Contribution Agreement (as further amended, restated, supplemented or otherwise modified from time to time, the “**SCA**” and

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<sup>2</sup> Each capitalized term used herein but not otherwise defined herein shall have the meaning ascribed to it in the Motion.

<sup>3</sup> The following Debtors were Subsidiary Originators as of the Petition Date: Arch Coal Sales Company, Inc., Arch Energy Resources, LLC, Arch Western Resources, LLC, Coal-Mac, Inc., Cumberland River Coal Company, Lone Mountain Processing, Inc., Mingo Logan Coal Company, Mountain Coal Company, L.L.C., Thunder Basin Coal Company, L.L.C., Bronco Mining Company, Inc., CoalQuest Development LLC, Hawthorne Coal Company, Inc., Hunter Ridge Coal Company, Hunter Ridge Holdings, Inc., Hunter Ridge, Inc., ICG Beckley, LLC, ICG East Kentucky, LLC, ICG Illinois, LLC, ICG, Inc., ICG Knott County, LLC, ICG, LLC, ICG Natural Resources, LLC, ICG Tygart Valley, LLC, International Coal Group, Inc., King Knob Coal Co., Inc., Marine Coal Sales Company, Melrose Coal Company, Inc., Patriot Mining Company, Inc., Powell Mountain Energy, LLC, Simba Group, Inc., Upshur Property, Inc., Vindex Energy Corporation, White Wolf Energy, Inc. and Wolf Run Mining Company. On February 9, 2016, the Debtors filed the *Debtors’ Motion for Entry of an Order (i) Approving the Sale and Transfer of Certain Assets and Liabilities Free and Clear of Encumbrances, (ii) Authorizing the Debtors to Enter into a Securitization Amendment and Granting Related Relief* [ECF No. 283] (the “**Knott County Sale Motion**”), seeking approval from the Court of, among other things, (a) the Debtors’ sale of membership interests in Originator ICG Knott County, LLC to a non-debtor third party and (b) the release of Knott County ICG, LLC as an Originator under the PSA and the other Financing Agreements pursuant to that certain First Amendment to Amended and Restated Purchase and Sale Agreement substantially in the form attached as Exhibit B to the Knott County Sale Motion.

collectively with the RPA and the PSA, the “**Receivables Agreements**”<sup>4</sup> between Arch Coal, Inc. and Arch Receivable (such Receivables sold or contributed to Arch Receivable, whether before or after the Petition Date (as defined below) being referred to herein as “**Transferred Receivables**”);

(2) authorizing Arch Coal, Inc., the Servicer and the other Debtors, as applicable, to enter into and otherwise perform or continue to perform under each of the other instruments and agreements related to the securitization facility contemplated by the Receivables Agreements (the “**Securitization Facility**”), whether effective prior to, upon or after entry of the Interim Order or this Final Order (each as defined below) (such other instruments and agreements, together with the Receivables Agreements, the “**Financing Agreements**” and such Financing Agreements, as amended and restated in connection with the commencement of the Chapter 11 Cases and the relief granted by the Interim Order and hereby, the “**Amendments**”), including notably, but without limiting the generality of the foregoing: (a) that certain Amended and Restated Performance Guaranty, dated as of the Closing Date, by Arch Coal, Inc. in favor of the Administrator for the benefit of the Securitization Purchasers (as may be amended, restated, supplemented or otherwise modified from time to time, the “**Performance Guaranty**”), (b) that certain Originator Performance Guaranty, dated as of the Closing Date, by each Subsidiary Originator in favor of the Administrator for the benefit of the Securitization Purchasers (as may be amended, restated, supplemented or otherwise modified from time to time, the “**Originator**

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<sup>4</sup> Each of the Receivables Agreements is dated as of January 13, 2016 (the “**Closing Date**”).

**Performance Guaranty**”), (c) that certain Blocked Account Agreement, dated as of February 3, 2006, among Arch Receivable, the Servicer and the Administrator, (d) that certain Eighth Amended and Restated Purchaser Group Fee Letter, dated as of the Closing Date, among the Administrator, LC Bank and Securitization Purchaser, Arch Coal, Inc., the Servicer and Arch Receivable and (e) that certain Amended and Restated Purchaser Group Fee Letter, dated as of the Closing Date, among Regions Bank as Securitization Purchaser, Arch Coal, Inc., the Servicer and Arch Receivable;

(3) authorizing Arch Coal, Inc. to cause its wholly owned non-debtor subsidiary, Arch Receivable, to perform or continue to perform under each of the Financing Agreements to which Arch Receivable is a party;

(4) authorizing the Servicer and each of the Originators to assume, and approving the assumption of, the Financing Agreements;

(5) authorizing Arch Coal, Inc., the Subsidiary Originators and the Servicer to enter into the Amendments and perform their obligations thereunder;

(6) pursuant to section 364(c)(1) of the Bankruptcy Code, granting Arch Receivable, the Administrator and the Securitization Purchasers priority in payment with respect to the obligations of the Servicer and the Originators under the Financing Agreements over any and all administrative expenses of the kinds specified in sections 503(b) and 507(b) of the Bankruptcy Code, other than with respect to (a) the DIP Superpriority Claims (as defined below) and (b) the Fees Carve-Out and the Bonding Carve-Out (each as defined in the interim or final, as applicable, order approving the *Debtors’ Motion for Entry of Interim and Final*

*Orders (i) Authorizing the Debtors (a) to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(b), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507(b) and (b) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (ii) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 361, 362, 363(c)(2), 364 and 507(b) and (iii) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) [ECF No. 27] (as may be amended, restated or otherwise modified from time to time, the “**DIP Order**”) and collectively, the “**Carve-Outs**”);*

(7) pursuant to section 364(c)(2) of the Bankruptcy Code, granting the Liens (as defined below) in favor of the Administrator (on behalf of the Securitization Purchasers) to the extent any transfer of such Receivables is subsequently avoided or recharacterized as an extension of credit or a pledge rather than an absolute sale;

(8) pursuant to section 362 of the Bankruptcy Code, modifying the automatic stay to permit deduction of the Repayment Amounts (as defined below) by Arch Receivable and the enforcement of remedies under the RPA and the other Financing Agreements; and

(9) requesting that a final hearing (the “**Final Hearing**”) be scheduled and held within 45 days of entry of the Interim Order and that notice procedures in respect of the Final Hearing be established by this Court to consider entry of a final order (this “**Final Order**”) authorizing, on a final basis, among other things, the Amendments and continued performance of the Debtors’ respective obligations under the Financing Agreements and granting other related relief;

notice of the Motion, as described by the Debtors at the January 12, 2016 hearing thereon (the “**Interim Hearing**”), having been given to the term loan administrative agent under the Debtors’ prepetition secured credit facility (the “**Prepetition Agent**”) and its counsel, the administrative agent for the lenders under the Debtors’ proposed debtor in possession secured credit facility (the “**DIP Agent**”) and its counsel, the official committee of unsecured creditors approved in these Chapter 11 Cases (the “**Creditors’ Committee**”) and its counsel, the Debtors’ 30 largest unsecured creditors, the Office of the United States Trustee for the Eastern District of Missouri (the “**U.S. Trustee**”), the Internal Revenue Service, the Securities and Exchange Commission, the United States Department of the Interior, the United States Department of Labor, the United States Attorney’s Office for the Eastern District of Missouri, the Administrator and the Securitization Purchasers; and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Interim Hearing having been held before this Court on January 12, 2016; and this Court having entered an interim order granting the relief sought by the Motion on an interim basis on January 13, 2016 (the “**Interim Order**”); and the Final Hearing having been held before the Court on February 23, 2016; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon the record made by the Debtors in the Motion, the *Declaration Of John T. Drexler, Senior Vice President and Chief Financial Officer of Arch Coal, Inc.*, at the Interim Hearing and at the Final Hearing;

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

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

2. *Jurisdiction, Authority and Venue.* The Court has subject matter jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334. The Court has authority to hear and determine the matters raised in the Motion pursuant to 28 U.S.C. § 157. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. *Debtors' Stipulations.* The Debtors admit, stipulate and agree that (a) letters of credit totaling \$178 million were outstanding under the Securitization Facility as of the date of the filing of the Debtors' chapter 11 petitions (the "**Petition Date**"); (b) the transfers of the Transferred Receivables by the Originators pursuant to the provisions of the Receivables Agreements, whether occurring prior to or subsequent to the Petition Date, constitute true sales under applicable non-bankruptcy law and are hereby deemed true sales and were or will be for fair consideration and are not otherwise voidable or avoidable; (c) upon the transfer of the Receivables to Arch Coal, Inc., and in turn to Arch Receivable, the Receivables did (with respect to transfers occurring prior to the Petition Date) and will (with respect to the transfers occurring on or after the Petition Date) become the sole property of Arch Receivable, and none of the Debtors, nor any creditors of the Debtors, shall retain any ownership rights, claims, liens or interests in or to the Transferred Receivables (other than, for the avoidance of doubt, the limited contractual rights to reconveyance of the Receivables set forth in the Financing Agreements) or any proceeds thereof pursuant to section 541 of the Bankruptcy Code, pursuant to substantive consolidation or otherwise; and (d) neither the Transferred Receivables nor the proceeds thereof shall constitute property of the bankruptcy estates of any of the Debtors, notwithstanding any intentional or inadvertent deposit of any proceeds of the Transferred Receivables in bank accounts owned or controlled by any of the Debtors. The Debtors have requested entry of this Final Order pursuant to Bankruptcy Rule 4001(c)(2) and the Local Rules of the Bankruptcy

Court for the Eastern District of Missouri (the “**Local Bankruptcy Rules**”). Entry of this Final Order is in the best interests of the Debtors’ estates and consistent with the Debtors’ exercise of their fiduciary duties.

4. *Release of Claims.* Subject to Paragraph 24 hereof, effective as of the date of entry of the Interim Order, the Debtors hereby absolutely and unconditionally forever waive, discharge, acquit and release any and all “claims” (as such term is defined in the Bankruptcy Code), counterclaims, demands, debts, accounts, contracts, liabilities, causes of action, defenses or setoff rights, in each case arising from or related to any acts or transactions occurring prior to the Petition Date against Arch Receivable or with respect to any property heretofore conveyed to Arch Receivable, the Administrator, the Securitization Purchasers, and with respect to each of the foregoing, their respective affiliates, agents, officers, directors, employees and attorneys (collectively, in each case solely in their capacity as such, the “**Released Parties**”), of any kind, nature or description, whether known or unknown, foreseen or unforeseen or liquidated or unliquidated, whether arising at law or in equity or upon contract or tort or under any state or federal law or otherwise, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any similar provisions of applicable state or federal law; *provided, however*, that nothing in the Interim Order or this Final Order releases any party thereto from its contractual obligations under the Financing Agreements or in any way affects its property interests, as provided in the Financing Agreements, in the Transferred Receivables or the proceeds thereof.

5. *Findings Regarding the Securitization Facility.*

(a) Sufficient cause has been shown for the entry of this Final Order.



(b) The Debtors need the uninterrupted continuation of the Securitization Facility in order to support the ongoing operations of their businesses, and entry into the Amendments and the continued performance of the Debtors' respective obligations under the Financing Agreements is in the best interests of the Debtors' estates. If the Securitization Facility does not continue uninterrupted, it will result in an adverse impact on the Debtors' liquidity.

(c) The Debtors have represented that they could not continue the Securitization Facility, nor, given their current financial condition, financing arrangements and capital structure, could they obtain any alternative postpetition financing on an unsecured basis, without the Servicer and the Originators granting, pursuant to section 364(c)(1) of the Bankruptcy Code, claims having priority over any and all administrative expenses of the kinds specified in sections 503(b) and 507(b) of the Bankruptcy Code, other than superpriority claims (i) allowed pursuant to section 364(c)(1) of the Bankruptcy Code as set forth in the DIP Order (the "**DIP Superpriority Claims**") and (ii) in respect of the Carve-Outs.

(d) Each Financing Agreement constitutes a valid and binding obligation of each Debtor party thereto, enforceable against each such Debtor in accordance with its terms. The terms and conditions of the Financing Agreements have been negotiated in good faith and at arm's length, and the transfers made or to be made and the obligations incurred or to be incurred shall be deemed to have been made for fair or reasonably equivalent value and in good faith (and without intent of the Debtors to "hinder, delay or defraud any creditor") as those terms are used in the Bankruptcy Code, and the transactions contemplated thereunder shall be deemed to have been made in "good faith" as that term is used in sections 363(m) and 364(e) of the Bankruptcy

Code and in express reliance upon the protections offered by sections 363(m) and 364(e) of the Bankruptcy Code.

6. *Authorization of Amendments and Continuation of Securitization Facility.*

(a) In furtherance of the foregoing and without further approval of this Court, Arch Coal, Inc., the Subsidiary Originators and the Servicer are expressly authorized and empowered to execute and deliver (or to have previously executed and delivered), and Arch Coal, Inc. is authorized to cause (or to have previously caused) Arch Receivable, as its wholly owned subsidiary, to execute and deliver, the Amendments and all related documents and instruments to be (or to have been) executed and delivered in connection therewith. Upon execution and delivery of the Amendments, the Amendments shall constitute valid, binding and unavoidable obligations of Arch Coal, Inc., the Subsidiary Originators and the Servicer, enforceable against each of them in accordance with the terms of the Amendments, the Interim Order and this Final Order. No obligation, payment, transfer or grant of security under the Amendments, the Interim Order or this Final Order shall be stayed, restrained, voidable or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 548 or 549 of the Bankruptcy Code), or subject to any defense, reduction, setoff, recoupment, claim or counterclaim.

(b) Pursuant to the Amendments, (i) the Facility Termination Date or a Termination Day (each as defined in the RPA) shall be deemed not to have occurred as a consequence of the filing of the Chapter 11 Cases, the taking of corporate action by any of the Debtors to so authorize such filing, the failure of any Debtor to pay any debts that are otherwise stayed as a result of the Chapter 11 Cases or the written admission by any Debtor of its inability

to pay its debts and (ii) certain additional Termination Events related to events in the Chapter 11 Cases shall be added to the Receivables Agreements.

(c) The Subsidiary Originators are expressly authorized to transfer, and shall be deemed to have transferred, free and clear of all interests of themselves or their respective creditors pursuant to sections 363(b)(1) and (f) of the Bankruptcy Code, the Receivables to Arch Coal, Inc., without recourse (except to the extent provided in the PSA and the other Financing Agreements). For the avoidance of doubt, “interests”, for purposes of this Final Order, shall include liens, claims, encumbrances and other interests.

(d) Arch Coal, Inc. is expressly authorized to transfer, and shall be deemed to have transferred, free and clear of all interests of itself or its creditors pursuant to sections 363(b)(1) and (f) of the Bankruptcy Code, the Receivables to Arch Receivable, without recourse (except to the extent provided in the SCA and the other Financing Agreements). For the avoidance of doubt, “interests”, for purposes of this Final Order, shall include liens, claims, encumbrances and other interests.

(e) The Servicer and the Originators are expressly authorized to:

(i) otherwise continue to perform, and Arch Coal, Inc. is authorized to cause Arch Receivable, as its wholly owned subsidiary, to continue to perform, their respective obligations under the Financing Agreements (including, in the case of Arch Coal, Inc., its obligations under the Performance Guaranty and, in the case of the Subsidiary Originators, their obligations under the Originator Performance Guaranty); and

(ii) make, execute and deliver, and Arch Coal, Inc. is authorized to cause Arch Receivable, as its wholly owned subsidiary, to make execute and deliver, all instruments and documents and perform all other acts (including, without limitation, the perfection of Arch

Receivable's ownership interest in the Transferred Receivables) that may be required in connection with the Financing Agreements and the transactions contemplated thereby; it being expressly contemplated that, pursuant to the terms of the Financing Agreements, the Servicer shall be expressly authorized and empowered pursuant to section 363(b)(1) of the Bankruptcy Code to service, administer and collect the Transferred Receivables on behalf of Arch Receivable pursuant to the Financing Agreements, and with respect to the Servicer, the Originators and Arch Receivable, each shall be expressly authorized and empowered pursuant to section 363(b)(1) of the Bankruptcy Code to make, execute and deliver all instruments and documents and perform all other acts (including, without limitation, the perfection of Arch Receivable's ownership interest in the Transferred Receivables) that may be required in connection with the Financing Agreements and the transactions contemplated thereby.

Moreover, transfers of Receivables under the Financing Agreements are in good faith, and Arch Receivable shall be entitled to the full benefits of section 363(m) of the Bankruptcy Code in connection with any transfers made pursuant to the provisions of the Financing Agreements. All obligations of the Servicer, the Originators and any other Debtors owing to the Administrator, the Securitization Purchasers and/or Arch Receivable, as applicable, under the Financing Agreements, including, without limitation, (A) the indemnification and other obligations in Article III and Exhibits III and IV of the RPA, the Interim Order and this Final Order and (B) amounts payable for any breaches of representations and warranties and for dilutions under Sections 3.3(a) and (b) of the SCA, the indemnities of Arch Coal, Inc. under Section 9.1 of the SCA, the obligations of Arch Coal, Inc. under the Second Amended and Restated Performance Guaranty and the obligations of the Subsidiary Originators under the Originator Performance Guaranty, the Interim Order and this Final Order, are hereinafter referred to as the "**Facility**

**Obligations.**” For the avoidance of doubt, the Facility Obligations do not include any amounts owing to the Administrator or the Securitization Purchasers or their respective affiliates under or in connection with (x) any swap claims, (y) any credit agreement in existence prior to the Petition Date not related to the Financing Agreements or (z) any other indebtedness not related to the Financing Agreements.

(f) Upon the execution and delivery thereof, the Financing Agreements shall constitute legal, valid and binding obligations of the Servicer and the Originators, as applicable, and are enforceable in accordance with their terms (other than, except as provided herein, in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code). Liens and security interests granted in favor of, or assigned to, Arch Receivable, the Administrator and the Securitization Purchasers (in each case solely in their capacity as such) and against the Servicer or any Originator, pursuant to and in connection with the Financing Agreements, are valid, binding, perfected, enforceable liens and security interests in the personal property described in the applicable Financing Agreements and not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, except as provided herein.

(g) In furtherance of the foregoing and without further approval of this Court, Arch Coal, Inc., the Subsidiary Originators and the Servicer are expressly authorized and empowered to, and Arch Coal, Inc. is authorized to cause Arch Receivable to, execute, deliver and perform under one or more amendments, waivers, consents or other modifications to or under the Financing Agreements, in each case, in such form as the Debtors party thereto, the Administrator and, to the extent required under the Financing Agreements, Arch Receivable and the Securitization Purchasers, may agree (it being understood that no further approval of the

Court shall be required for authorizations, amendments, waivers, consents or other modifications to or under the Financing Agreements (and any fees paid in connection therewith) that do not shorten the tenor of the Securitization Facility or increase the commitments or the fees or other pricing terms thereunder); *provided*, that copies of any amendments, waivers, consents or other modifications to or under the Financing Agreements shall be provided by the Debtors to counsel to the Prepetition Agent, counsel to the DIP Agent and counsel to the Creditors' Committee.

(h) Any proceeds of Transferred Receivables or other collateral of the Administrator or Securitization Purchasers coming into the possession or control of the Servicer, the Originators or the other Debtors shall be held in trust for the benefit of the Administrator and the Securitization Purchasers.

(i) The limited liability company interests in Arch Receivable are property of the estate of Arch Coal, Inc. and subject to the automatic stay.

7. *Assumption of Financing Agreements.* The Servicer and the Originators hereby assume the Financing Agreements and ratify and affirm their respective obligations thereunder pursuant to sections 363 and 365 of the Bankruptcy Code.

8. *Superpriority Claims.* In accordance with section 364(c)(1) of the Bankruptcy Code, the Facility Obligations shall constitute allowed senior administrative expense claims against the Servicer and each Originator (without the need to file any proof of claim) (the "**Superpriority Claims**") with priority (except as otherwise provided herein) over any and all administrative expenses, adequate protection claims, diminution claims and all other claims against the Servicer or the applicable Originator, 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, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 or 1114 of the Bankruptcy Code, 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, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which shall be payable from, and have recourse to, all pre- and post-petition property of the Servicer or the applicable Originator and all proceeds thereof, subject only to any DIP Superpriority Claims (which shall be *pari passu* with, but not senior to, the Superpriority Claims) and payment of the Carve-Outs. Subject only to the DIP Superpriority Claims and the Carve-Outs, no cost or expense of administration asserted by a Debtor with obligations arising under the Financing Agreements under sections 105, 364(c)(1), 503(b), 506(c) or 507(b) of the Bankruptcy Code, or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, shall be senior to, or *pari passu* with, the Superpriority Claims of the Administrator, the Securitization Purchasers or Arch Receivable arising out of the Facility Obligations. The Administrator shall be permitted to enforce on a derivative basis any Superpriority Claims belonging to Arch Receivable in respect of the Facility Obligations. The Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

9. *Carve-Outs.* Any provision of the Interim Order, this Final Order or the Financing Agreements to the contrary notwithstanding, the Superpriority Claims shall be subject and subordinate to the Carve-Outs. If any amount owed pursuant to the Carve-Outs is satisfied with the assets of the Servicer or any Originator and exceeds the product of (a) the applicable

Carve-Out and (b) such Debtor's net asset value expressed as a percentage of the net asset value of the Debtors taken as a whole, such Debtor shall have a right of contribution against the other Debtors in an amount equal to such excess (or in such other amount as the Bankruptcy Court may deem appropriate under the circumstances) and with the same relative priority as the applicable Carve-Out, and shall be subrogated to the rights of any claimant under the applicable Carve-Out in respect of such right of contribution; *provided, however*, that the Carve-Outs shall not include professional fees and disbursements incurred in connection with asserting any claims or causes of action against the Administrator or the Securitization Purchasers and/or challenging or raising any defense to the Facility Obligations or other obligations under the Financing Agreements (other than to seek a determination that a Termination Event has not occurred or is not continuing).

10. *Security Interests and Liens.* Notwithstanding the foregoing, if any transfer of Receivables from the Originators to Arch Receivable on or after the Petition Date is subsequently avoided or recharacterized as an extension of credit or a pledge rather than an absolute sale, to secure each Originator's postpetition obligations to Arch Receivable, the Administrator and the Securitization Purchasers under the Financing Agreements, the Administrator (for the benefit of the Securitization Purchasers) is hereby granted, pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, unavoidable and fully perfected first priority security interests in and liens upon all of such Originator's rights in such Originator's Receivables and other Related Rights (as defined in the PSA) originated and purported to be sold through the Securitization Facility on or after the Petition Date, whether existing on the Petition Date or thereafter arising or acquired (the "**Liens**"). The Liens granted to the Administrator pursuant to the Interim Order and this Final Order shall not be subject to



challenge and shall attach and become valid, perfected, enforceable, non-avoidable and effective, by operation of law as of the Petition Date without any further action by the Debtors, Arch Receivable, the Administrator or the Securitization Purchasers, and without the necessity of execution by the Debtors, or the filing or recordation, of any financing statements, security agreements, or other documents and no lien senior to or *pari passu* with the Liens may be permitted under section 364(d)(1) of the Bankruptcy Code against the Originator's Receivables and other Related Rights. The foregoing provision shall continue the enforceability, perfection and priority of the Liens notwithstanding any name change, change of location or other action by any of the Debtors that would require the filing of amendments to financing statements. The Liens shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

11. *Preservation of Rights Granted Under This Final Order.* Other than the Carve-Outs and the DIP Superpriority Claims, no claim having a priority superior to or *pari passu* with those granted by this Final Order shall be granted or allowed while any of the Amendments remain outstanding. The Liens shall not be (a) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under 551 of the Bankruptcy Code; or (b) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise. This Final Order and the Amendments shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases, terminating the joint administration of these Chapter 11 Cases or by any other act or omission; or (ii) the entry of an order confirming a

chapter 11 plan in any of the Chapter 11 Cases. The terms and provisions of this Final Order and the Amendments shall continue in these Chapter 11 Cases, in any successor cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the Liens, the Superpriority Claims and all other rights and remedies granted by the provisions of this Final Order and the Amendments shall continue in full force and effect until the Amendments expire by their terms or have been otherwise terminated.

12. *Setoff of Repayment Amounts.* Pursuant to the Financing Agreements, (a) Arch Receivable may deduct from the purchase price of Transferred Receivables amounts that are payable by Arch Coal, Inc. or the Subsidiary Originators to Arch Receivable in respect of violations of certain representations and warranties and dilution items; and (b) if Arch Receivable obtains the issuance of letters of credit in an amount in excess of the applicable purchase price for Transferred Receivables, it may deduct such excess amount from the purchase price for future Transferred Receivables (collectively, the “**Repayment Amounts**”), and the automatic stay provisions of section 362 of the Bankruptcy Code are hereby modified to the extent necessary so as to permit the deduction of such amounts contemplated by the Financing Agreements by Arch Receivable. The payment by Arch Receivable of the purchase price for Receivables that are subsequently reduced by such Repayment Amounts constitutes an extension of credit to the applicable Originators that is hereby authorized under section 364 of the Bankruptcy Code.

13. *Corporate Separateness.* The performance by the Servicer, the Originators and Arch Receivable of their respective obligations under the Financing Agreements, and the consummation of the transactions contemplated by the Financing Agreements, and the conduct by the Servicer, the Originators and Arch Receivable of their respective businesses, whether

occurring prior to or subsequent to the Petition Date, do not, and shall not, provide a basis for (a) a substantive consolidation of the assets and liabilities of any or all of the Servicer and the Originators with the assets and liabilities of Arch Receivable or (b) a finding that the separate corporate identities of the Servicer, the Originators and Arch Receivable may be ignored.

Notwithstanding any other provision of the Interim Order or this Final Order, the Administrator and the Securitization Purchasers have agreed to enter into the applicable Financing Agreements in express reliance on Arch Receivable being a separate and distinct legal entity, with assets and liabilities separate and distinct from those of any of the Debtors.

14. *Payment of Fees, Costs and Expenses.* Pursuant to the Financing Agreements and as described in the Motion, Arch Receivable has agreed to pay, and Arch Coal, Inc. is hereby authorized and directed (without the necessity of any further application being made to, or order obtained from, this Court) to cause (or to have previously caused) Arch Receivable, as a wholly owned subsidiary of Arch Coal, Inc., to pay certain fees in consideration of, among other things, the efforts of, and services performed by, the Administrator and the Securitization Purchasers and certain costs and expenses of the Administrator and the Securitization Purchasers, in each case as provided for in the Financing Agreements.

15. *Blocked Account Agreement.* Collections of Transferred Receivables and other funds that are subject to the Blocked Account Agreement shall be processed and transferred pursuant to such agreement, and such agreement is hereby approved in all respects and each deposit bank party thereto is authorized and directed to comply therewith.

16. *Parties in Interest; Successors.* The Financing Agreements and the provisions of the Interim Order and this Final Order shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the Debtors, Arch Receivable, the

Administrator, the Securitization Purchasers and the respective successors and assigns of each of the foregoing (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of the Servicer or any of the Originators, an examiner appointed pursuant to section 1104 of the Bankruptcy Code or any other fiduciary appointed as a legal representative of the Servicer or any of the Originators or with respect to the property of the estate of any of the Originators) and shall inure to the benefit of, without limitation, the Debtors, Arch Receivable, the Administrator and the Securitization Purchasers.

17. *Derivative Standing.* The Administrator shall be entitled, derivatively, to assert any and all of the rights of Arch Receivable arising as a result of the Financing Agreements, including, without limitation, those rights conveyed under section 363(m) of the Bankruptcy Code. Nothing in the Interim Order or this Final Order vests or confers on any person (as defined in the Bankruptcy Code), including the Creditors' Committee or any other statutory or nonstatutory committee that may be appointed in these Chapter 11 Cases (a "**Committee**"), standing or authority to pursue any cause of action belonging to the Debtors or their estates.

18. *No Control; No Fiduciary Duties.* Arch Receivable, the Administrator and the Securitization Purchasers shall not (a) be deemed to be in control of the operations of the Debtors or (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates.

19. *Reversal, Modification, Stay or Vacatur.* If any or all of the provisions of the Interim Order or this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacatur shall not affect (a) the validity of any transfer of the Receivables made pursuant to the provisions of the Financing Agreements prior to written notice to the Administrator and Arch Receivable of the effective date of such reversal, stay, modification or vacatur, (b) the validity of any obligation or liability incurred by the Servicer or

any Originator prior to written notice to the Administrator or Arch Receivable of the effective date of such reversal, stay, modification or vacatur or (c) the validity and enforceability of any priority authorized or created by the Interim Order, hereby or pursuant to the Financing Agreements. Notwithstanding any such reversal, stay, modification or vacatur, any indebtedness, obligations or liabilities incurred or payment made by the Servicer or any of the Originators, prior to written notice to the Administrator or Arch Receivable of the effective date of such reversal, stay, modification or vacatur, shall be governed in all respects by the original provisions of the Interim Order and this Final Order, and the Administrator, the Securitization Purchasers and Arch Receivable shall be entitled to all the rights, remedies, privileges and benefits granted herein, and pursuant to the Financing Agreements with respect to all such indebtedness, obligations or liabilities (including, without limitation, with respect to the manner in which the proceeds of the Transferred Receivables are applied) and to the full benefits of sections 363(m) and 364(e) of the Bankruptcy Code in connection therewith.

20. *Dismissal.* If an order dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (a) the Superpriority Claims, liens and security interests granted to the Administrator and the Securitization Purchasers pursuant to the Interim Order and this Final Order shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all Facility Obligations and all other obligations under the Financing Agreements shall have been indefeasibly paid in full in cash (other than contingent indemnification obligations as to which no claim has been asserted); and (b) such Superpriority Claims, liens and security interests, shall, notwithstanding such dismissal, remain binding on all parties in interest.

21. *No Surcharge; Rights and Remedies Against the Debtors.* Upon transfer to Arch Receivable, the Transferred Receivables are and shall be the property of Arch Receivable and not property of the estates of any of the Debtors and accordingly no expenses of administration of the Chapter 11 Cases or any future proceeding or case that may result from the Chapter 11 Cases, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against the Transferred Receivables, or the proceeds thereof pursuant to section 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the Administrator and no such consent shall be implied from any other action, inaction or acquiescence by the Administrator. The automatic stay provisions of section 362 of the Bankruptcy Code are vacated or modified to the extent necessary to permit the Administrator to exercise any rights and remedies to the extent provided for in the RPA and to the extent provided for in the Financing Agreements, including to take any or all of the following actions without further order of or application to this Court, in each case, solely to the extent provided for in the Financing Agreements: (a) cease to make any extensions of credit or advances to Arch Receivable, including any issuance of letters of credit by the LC Bank; (b) declare all Facility Obligations to be immediately due and payable; (c) place an administrative hold on accounts maintained by Arch Receivable with the Administrator; (d) set off and apply immediately any and all amounts in accounts maintained by Arch Receivable with the Administrator against any obligations owing by Arch Receivable under the RPA; (e) set off and apply any and all amounts in accounts maintained by the Servicer or the Subsidiary Originators against any obligations owing by the Servicer or the Subsidiary Originators under the Financing Agreements; *provided, however,* that no such setoff shall be made to the extent such accounts secure any Eligible DIP Facility (as defined in the RPA); (f) demand payment or performance of any Guaranteed

Obligations (as defined in each of the Performance Guaranty and the Originator Performance Guaranty); and (g) take any other actions or exercise any other rights or remedies permitted under this Final Order, the Financing Agreements or applicable law to effect the repayment and satisfaction of the obligations under the Financing Agreements; *provided, however*, that prior to any such exercise of rights or remedies (other than the rights and remedies described in clauses (a), (b), (c) and (d) above), the Administrator shall give seven days' prior written notice to the Debtors (with copies to the DIP Agent, the Creditors' Committee and the U.S. Trustee).

22. *Exculpation.* Nothing in the Interim Order, this Final Order, the Financing Agreements, the Amendments or any other documents related to these transactions shall in any way be construed or interpreted to impose or allow the imposition upon the Administrator, LC Bank or any Securitization Purchaser of any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their business or in connection with their restructuring efforts.

23. *Order Governs.* In the event of any inconsistency between the provisions of this Final Order and the Financing Agreements, the provisions of this Final Order shall govern.

24. *Binding Effect of Stipulations and Releases.* The stipulations, admissions and releases contained in Paragraphs 3 and 4 of this Final 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, admissions and releases contained in Paragraphs 3 and 4 of this Final Order, shall be binding upon all other parties in interest, including, without limitation, the Creditors' Committee, any other Committee and any other person or entity acting on behalf of the Debtors' estates, unless (a) a party in interest has timely filed an adversary proceeding or contested matter by the earlier of

(i) February 27, 2016 and (ii) 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 (A) as has been agreed to, in writing, by the Administrator in its sole discretion or (B) as has been ordered by the Court (the “**Challenge Period**”), challenging such stipulation, admission or release or asserting any claims or causes of action on behalf of the Debtors’ estates against the Released Parties and (b) 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 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 is timely filed then, without further order of the Court, all of the stipulations, admissions and releases contained in Paragraphs 3 and 4 of this Final Order, shall be binding upon all parties in interest in these Chapter 11 Cases and shall not be subject to challenge or modification in any respect. If any such adversary proceeding or contested matter is timely filed, the stipulations, admissions and releases contained in Paragraphs 3 and 4 of this Final Order shall nonetheless remain binding on the Creditors’ Committee, any other Committee and any other person or entity, except to the extent that such stipulation, admission or release has been expressly challenged in such adversary proceeding or contested matter.

25. *Waiver of Stay.* Notwithstanding any Bankruptcy Rule (including, but not limited to, Bankruptcy Rule 6004(h)) or Local Bankruptcy Rule of the Bankruptcy Court for the Eastern District of Missouri that might otherwise delay the effectiveness of this Final Order, the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.



26. *Necessary Action.* The Debtors are authorized to take all such actions as are necessary to implement the terms of this Final Order.

27. *Effectiveness.* This Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules or any Local Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

28. *Headings.* Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Final Order.

29. *Notice.*

(a) The Debtors have represented that they have made proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

(b) No later than two business days after the date of this Final Order, the Debtors shall serve a copy of this Final Order on the Notice Parties, counsel to the Creditors' Committee and any party that has filed a request for notices with this Court and, no later than 24 hours after such service, the Debtors shall file a certificate of service with the Court.



CHARLES E. RENDLEN, III  
U. S. Bankruptcy Judge

DATED: February 25, 2016  
St. Louis, Missouri  
jld

**Order Prepared By:**

Marshall S. Huebner

Brian M. Resnick

Michelle M. McGreal

Kevin J. Coco

DAVIS POLK & WARDWELL LLP

450 Lexington Avenue

New York, New York 10017