



and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having authority to enter a final order consistent with Article III of the United States Constitution; and venue in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided under the circumstances; and it appearing that the relief requested in the Motion is in the best interest of the Debtors' estates, their creditors and other parties-in-interest; and any objections to the relief requested in the Motion having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor,

**IT IS FOUND AND DETERMINED THAT:<sup>3</sup>**

A. The notice given by the Debtors of the Motion and the hearing with respect to the Motion constitutes proper, timely, adequate and sufficient notice thereof and complies with the Bankruptcy Code, the Bankruptcy Rules and applicable Local Rules, and no other or further notice is necessary.

B. The terms and conditions of the RSA are incorporated as if fully set forth herein in the first instance. The terms and conditions thereunder are fair, reasonable, and the best available to the Debtors under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, are based on good, sufficient, and sound business purposes and justifications, and are supported by reasonably equivalent value and fair consideration. The RSA was negotiated in good faith and at arms' length among the Debtors, the Ad Hoc Committee and their respective professional advisors.

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<sup>3</sup> Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, pursuant to Bankruptcy Rule 7052.

C. The obligation to Noteholder Fees and Expenses (as defined in the RSA) set forth in Section 5(r) of the RSA constitutes an actual and necessary cost and expense to preserve the Debtors' estates and is reasonable and warranted on the terms set forth in the RSA.

D. The obligation to pay Noteholder Fees and Expenses set forth in Section 5(r) of the RSA is a bargained for and integral part of the transactions contemplated by the RSA and, without such inducement, the Ad Hoc Committee would not have agreed to the terms and conditions of the RSA. Accordingly, such obligation is reasonable and enhances the value of the Debtors' estates.

E. The entry into the RSA by the parties thereto, and the performance and fulfillment of their respective obligations thereunder, do not constitute the solicitation of a vote on a chapter 11 plan and comply with the Bankruptcy Code and any and all other applicable statutes, laws, regulations, or orders.

F. All parties in interest have been afforded a reasonable opportunity to object and be heard with respect to the Motion and the RSA and all of the relief granted herein.

G. The RSA and all accompanying relief requested in the Motion serve to maximize estate value for the benefit of all the Debtors' stakeholders and parties in interest, and are otherwise in the best interests of the Debtors, their estates, equity holders, creditors, and all parties in interest.

**BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED to the extent set forth herein.
2. All objections to the Motion or the relief requested therein, if any, that have not been withdrawn, waived or settled, and all reservations of rights included therein, are overruled with prejudice.

3. The RSA is approved in its entirety, the Debtors' entry into the RSA is approved, and the Debtors are authorized and directed (and are hereby deemed) to assume the RSA and to fully perform any and all obligations thereunder.

4. The RSA shall be binding and enforceable against the parties thereto in accordance with its terms.

5. Any cure amount or other requirements of section 365 of the Bankruptcy Code are hereby deemed satisfied.

6. The failure to describe specifically or include any particular provision of the RSA in the Motion or this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the RSA be assumed by the Debtors in its entirety and that the Debtors fully perform their obligations thereunder.

7. The Debtors are authorized and directed to pay the fees, expenses and other amounts provided for or permitted by the RSA (including, without limitation, the Noteholder Fees and Expenses) in accordance with the terms of the RSA. Without limiting any other provision of this Order, the Court finds that the Noteholder Fees and Expenses provided under the RSA: (i) are reasonable and necessary to the preservation of the Debtors' estates and are approved and allowed as administrative expenses pursuant to sections 503(b) and 507(a) of the Bankruptcy Code; and (ii) shall be payable pursuant to the terms of the RSA; *provided, however*, that such payments shall be junior in all respects to the superpriority administrative expense claims granted with respect to the DIP Facility. Under no circumstances shall the Noteholder Fees and Expenses be refundable or subject to any avoidance, disgorgement, reduction, setoff, recoupment, offset, recharacterization, subordination (whether contractual, equitable, or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, or any

other challenges under any theory at law or in equity by any person or entity. The Noteholder Fees and Expenses shall not be subject to further approval of the Court and no recipient of any Noteholder Fees and Expenses shall be required to file any interim or final application with the Court as a condition precedent to the Debtors' obligation to pay the Noteholder Fees and Expenses.

8. The RSA shall be solely for the benefit of the parties thereto and no other person or entity shall be a third-party beneficiary thereof. No entity, other than the parties to the RSA, shall have any right to seek or enforce specific performance of the RSA.

9. The Debtors irrevocably waive any right to seek any modification, stay, vacatur or amendment of this Order without the prior written consent of the Requisite Supporting Noteholders (as defined in the RSA), and no such consent shall be implied by any other action, inaction or acquiescence of any of the Supporting Noteholders (as defined in the RSA).

10. The failure of any Supporting Noteholder to seek relief or otherwise exercise its rights and remedies under this Order, the RSA, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of any of the Supporting Noteholders.

11. To the extent the automatic stay provisions of section 362 of the Bankruptcy Code would otherwise apply, such provisions are vacated and modified to effectuate all of the terms and provisions of the RSA and this Order, including, without limitation, permitting the Supporting Noteholders to exercise all rights and remedies under the RSA in accordance with its terms, and deliver any notice contemplated thereunder, in each case, without further order of the Court.

12. Nothing in this Order shall relieve any of the Debtors from their obligations to comply with all applicable provisions of the documents governing the DIP Facility and orders approving the same.

13. The RSA and the provisions of this Order, including all findings herein, shall be effective and binding upon all parties in interest in the Chapter 11 Cases, including, without limitation, all creditors of any of the Debtors, any statutory or other committee appointed in the Chapter 11 Cases, the Debtors and their respective successors and assigns, including any trustee hereinafter appointed or elected for any of the Debtors, any examiner appointed, a responsible person, officer, or any other party appointed as a legal representative or designee of any of the Debtors or with respect to the property of the Debtors' estates, whether in the Chapter 11 Cases, in any successor chapter 11 or chapter 7 cases, or upon any dismissal of any such cases, and shall inure to the benefit of the Ad Hoc Committee and the Debtors and their respective successors and assigns.

14. Nothing in this Order shall restrict, impair or otherwise limit the right of any party in interest to assert any objection to confirmation of the Debtors' chapter 11 plan of reorganization filed in the Chapter 11 Cases.

15. The Debtors are authorized to execute, deliver, and perform one or more amendments, waivers, consents, or other modifications to and under the RSA (including any related agreements, documents or papers), in each case in accordance with the terms of the RSA, and no further approval of the Court shall be required for any amendment, waiver, consent, or other modification to and under the RSA (including any related agreements, documents or papers) that does not have a material adverse effect on the Debtors' estates; *provided*, that any amendment, waiver, consent or other modification that effects a change to the treatment of a

class of claims or interests shall not be deemed or considered to have a material adverse effect on the Debtors' estates; *provided further, however*, that any such material amendment waiver, consent, or other modification shall be served by the Debtors on counsel to the administrative agent and collateral agent under the DIP Facility, counsel to the United States Trustee, and counsel to any official committee of unsecured creditors appointed in the Chapter 11 Cases as soon as reasonably practicable.

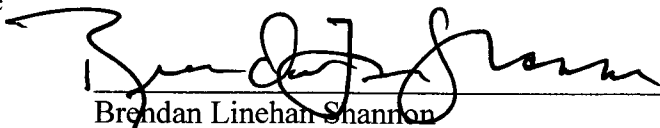
16. The Debtors are authorized to take any and all actions, and to execute any and all instruments, documents and papers necessary to implement the terms of the RSA and effectuate the relief granted pursuant to this Order.

17. Notwithstanding Bankruptcy Rules 6004(h) and 6006, this Order shall take effect immediately upon its entry.

18. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

19. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: February 4, 2016  
Wilmington, Delaware

  
Brendan Linehan Shannon  
United States Bankruptcy Judge