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*Counsel for the Debtors and
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

))	
In re:)	Chapter 11)	
))	
PATRIOT COAL CORPORATION, <u>et al.</u> ,)	Case No. 15-32450 (KLP))	
))	
Debtors.)	(Jointly Administered))	
))	

STIPULATED PROTECTIVE ORDER

This stipulation is made and entered into by Patriot Coal Corporation (“Patriot”) and certain of its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases and the UMWA 1974 Pension Plan and Trust (the “Pension Plan”), and entered by the Court as a protective order (the “Order”) concerning information that the Debtors may share with the Pension Plan, and that the Pension Plan may share with the Debtors, to facilitate labor negotiations and any potentially related court proceedings. The Debtors and the Pension Plan are collectively referred to herein as the “Parties”.

WHEREAS, the Parties may provide to each other certain financial and business information in connection with labor negotiations and any potentially related court proceedings (the “Proceedings”) that they consider confidential, proprietary, and/or private; and

WHEREAS, in consideration of the disclosure of such information, to expedite the exchange of discovery materials related to the Proceedings, to facilitate the prompt resolution of disputes over confidentiality, to protect material entitled to be kept confidential, and in consideration of the covenants of the Parties and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties stipulate and the United States Bankruptcy Court for the Eastern District of Virginia (the “Court”) hereby ORDERS as follows:

1. The Parties signing below acknowledge and agree that the Court has and shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

2. This Order applies to all information, documents, transcripts, and things produced either by a Party or a non-Party (each a “Producing Person”) in response to or in connection with any informal or formal provision of information related to the Proceedings, including without

limitation, voluntary or court-compelled provision of documents or other information, deposition testimony (whether based upon oral examination or written questions), answers to interrogatories, requests for admission, responses to requests for admission, documents and things produced (including documents and things produced to the receiving Party for inspection and documents and things provided to the receiving Party, whether in the form of originals or copies) as well as any and all copies, abstracts, digests, notes, summaries, and excerpts thereof (collectively referred to as "Discovery Material").

Confidential Material

3. Any Producing Person providing Discovery Material may designate such Discovery Material as "Confidential" if the Producing Person reasonably and in good faith believes that the Discovery Material constitutes or includes what a Party believes to be non-public information related to one or more Parties (the "Confidential Material"), including but not limited to technical, business, financial, personal, or other information about said Party or Parties.

4. Any Confidential Material may be designated by the Producing Person as such by marking the first page with the word "Confidential".

5. Confidential Material and the substantive information contained within shall be given, shown, made available to, or communicated only to the following, subject to the provisions of Paragraph 7 herein:

- a. the Parties' officers, directors, and officially-designated bargaining representatives;
- b. inside and outside counsel and financial advisors to the Parties (including any actuarial, costing, productivity, or benefit advisors);

- c. outside counsel and financial advisors to the official committee of unsecured creditors appointed in the Debtors' chapter 11 cases (the "Committee");
- d. testifying and consulting experts;
- e. the Court, its officers, and clerical staff;
- f. outside photocopying, graphic production services, or litigation support services;
- g. court reporters, stenographers, or videographers who record deposition or other testimony in the litigation; and
- h. any other person or entity to whom the Producing Person may consent in writing.

6. In no instance shall the Pension Plan officers, bargaining representatives, and/or Pension Plan counsel and other advisors listed in Paragraph 5 herein disclose Confidential Material to persons not listed in Paragraph 5.

7. Before any individual covered by Paragraphs 5(a)–(d), 9(a)–(d), and 12(a)–(c) herein is given access to Confidential Material, such person shall be given a copy of this Order and sign the declaration of acknowledgement attached hereto as **Exhibit A**, acknowledging that he or she read the Order and agrees to be bound by the terms thereof. This paragraph shall not apply to the inside or outside counsel of the Parties.

Attorneys' Eyes Only Material

8. The Parties also recognize that certain information that they may request and/or exchange in connection with this matter may contain not only Confidential Material but also extremely personal or private information, such as competitively sensitive documents that could affect the Debtors' negotiations with other constituencies in these chapter 11 cases and/or the Debtors' position in the marketplace, and/or compensation information that relates to the

employees who are not beneficiaries of the Pension Plan and whose compensation is not publicly disclosed as a regulatory matter, that should not be disclosed publicly under any circumstances. Any Producing Person providing such Discovery Material may reasonably and in good faith designate it as “Confidential - Attorneys’ Eyes Only,” and if such material is requested, and a Party agreed to provide such information, it should be marked “Confidential - Attorneys’ Eyes Only”.

9. Materials marked “Confidential - Attorneys’ Eyes Only” (collectively, the “Attorneys’ Eyes Only Material”) shall be made available to or communicated only to the following, subject to the provisions of Paragraph 7 herein:

- a. outside counsel and outside testifying and consulting experts;
- b. the in-house lawyers and in-house financial advisors/analysts to the Parties;
- c. outside counsel and financial advisors to the Committee;
- d. outside financial advisors to the Parties;
- e. the Court, its officers, and clerical staff;
- f. outside photocopying, graphic production services, or litigation support services;
- g. court reporters, stenographers, or videographers who record deposition or other testimony in the litigation; and
- h. any other person or entity to whom the Producing Person may consent in writing.

10. Pension Plan counsel and financial advisors shall be permitted to discuss with Pension Plan officers (to the extent not designated pursuant to Paragraph 9(b)) and bargaining representatives the general type of Attorneys’ Eyes Only Material reviewed and/or the conclusions the Pension Plan counsel and financial advisors have drawn from a review of such

information, but in no instance shall the Pension Plan counsel and financial advisors listed in Paragraph 9 herein disclose Attorneys' Eyes Only Material to persons not listed in Paragraph 9.

Outside Advisors' Eyes Only Material

11. The Parties also recognize that certain Attorneys' Eyes Only Material that they may request and/or exchange in connection with this matter may contain certain information that should not be shared with in-house advisors and should only be disclosed to such Parties' outside counsel and financial advisors. Any Producing Person providing such Discovery Material may reasonably and in good faith designate it as "Confidential - Outside Advisors' Eyes Only," and if such material is requested, and a Party agreed to provide such information, it should be marked "Confidential - Outside Advisors' Eyes Only".

12. Materials marked "Confidential - Outside Advisors' Eyes Only" (collectively, the "Outside Advisors' Eyes Only Material") shall be made available to or communicated only to the following, subject to the provisions of Paragraph 7 herein:

- a. outside counsel and outside testifying and consulting experts;
- b. outside financial advisors to the Parties;
- c. outside counsel and financial advisors to the Committee;
- d. the Court, its officers, and clerical staff;
- e. outside photocopying, graphic production services, or litigation support services;
- f. court reporters, stenographers, or videographers who record deposition or other testimony in the litigation; and
- g. any other person or entity to whom the Producing Person may consent in writing.

13. Pension Plan outside counsel and financial advisors shall be permitted to discuss with the Pension Plan in-house lawyers and in-house financial advisors/analysts, Pension Plan officers, and bargaining representatives the general type of Outside Advisors' Eyes Only Material reviewed and/or the conclusions the Pension Plan outside counsel and financial advisors have drawn from a review of such information, but in no instance shall the outside counsel and financial advisors listed in Paragraph 12 herein disclose Outside Advisors' Eyes Only Material to persons not listed in Paragraph 12.

14. Parties shall attempt in good faith to maintain the confidentiality of Confidential Material, Attorneys' Eyes Only Material, and Outside Advisors' Eyes Only Material by filing the same under seal, pursuant to the applicable rules and procedures of the Court, the United States District Court for the Eastern District of Virginia, and the United States Court of Appeals for the Fourth Circuit.

15. Counsel shall confer on such procedures as are necessary to protect the confidentiality of Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material at any court hearing related to the Proceedings, and in the event that counsel cannot agree on such procedures, the question shall be submitted to the court in which the materials are to be used.

16. In the case of formal depositions, if counsel for a Party believes that a portion or all of the testimony given at a deposition constitutes Confidential Material, Attorneys' Eyes Only Material, or Outside Advisors' Eyes Only Material of such Party or non-Party, counsel shall so state on the record and shall request that the relevant portion of testimony be sealed. In addition, any Party may designate the relevant portion of the transcript or videotape of a deposition as Confidential Material, Attorneys' Eyes Only Material, or Outside Advisors' Eyes Only Material

within five (5) court days of the Party's receipt of the transcript from the court reporter. Such designation and notice shall be made in writing to the court reporter, with copies to all other counsel, identifying the portion(s) of the transcript that constitute items designated as Confidential Material, Attorneys' Eyes Only Material, or Outside Advisors' Eyes Only Material.

17. If any receiving Party objects to the designation of any Discovery Material as "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Outside Advisors' Eyes Only", the receiving Party shall first raise the objection by letter with the Producing Person responsible for such designation. Within three (3) business days after receiving such a letter from the receiving Party, the Producing Person claiming confidentiality shall either inform the receiving Party of the basis of its assertion of confidentiality, or else withdraw the designation of confidentiality. The Parties shall thereafter seek to confer in good faith by telephone or in person to attempt to resolve any dispute respecting the terms or operation of this Order. If such dispute cannot be resolved within three (3) business days, the objecting Party may then move the Court for appropriate relief. The Producing Person claiming protection shall have the burden of showing good cause for keeping the Discovery Material Confidential, Confidential - Attorneys' Eyes Only, or Confidential - Outside Advisors' Eyes Only. No document marked "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Outside Advisors' Eyes Only" shall be used or disclosed inconsistent with this Order until the dispute is resolved by the Court.

Additional Provisions Regarding The Use Of Certain Discovery Material

18. Except as otherwise expressly stated herein, the Confidential Material, Attorneys' Eyes Only Material, and Outside Advisors' Eyes Only Material may only be used in connection with the Proceedings.

19. Within 30 days of the conclusion of all Proceedings, and any appeal, all Confidential Material, Attorneys' Eyes Only Material, and Outside Advisors' Eyes Only Material, and all copies or notes thereof, shall be returned to counsel for the respective Producing Parties or destroyed. This obligation to return or destroy Confidential Material, Attorneys' Eyes Only Material, and Outside Advisors' Eyes Only Material applies equally to such material that is within a Party's possession that has been included in court filings under seal, used as exhibits to a deposition, and used during hearings at which persons not authorized to review those materials have been excluded from the courtroom. If a person in possession of Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material chooses to destroy documents after the conclusion of these proceedings, that person shall certify such destruction in writing to counsel for the Producing Person. Notwithstanding anything in this paragraph, to the extent that the information in the Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material remains Confidential, the terms of this Order shall remain binding.

20. This Order applies to all non-Parties that are served with subpoenas in connection with the Proceedings or who otherwise produce documents or are noticed for deposition in connection with the Proceedings, and all such non-Parties are entitled to the protection afforded hereby upon signing a copy of this Order and agreeing to be bound by its terms.

21. The obligations set forth in this Order shall not apply with respect to any Confidential Material, Attorneys' Eyes Only Material, or Outside Advisors' Eyes Only Material that: (a) is or subsequently comes within the public domain, without any fault of or violation of this Order or any other duty of confidentiality by the Parties, and without any violation of a duty of confidentiality by a third party; (b) is disclosed independently to the Party in receipt of the

Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material on a non-confidential basis by a third party that is not subject to any duty of confidentiality with respect to such information; or (c) was independently developed by a Party without the use of any Confidential Material, Attorneys' Eyes Only Material, or Outside Advisors' Eyes Only Material or any other information obtained or used by such Party in violation of a duty of confidentiality, or disclosed by a third party in violation of a duty of confidentiality.

22. Any person or Party subject to this Order that may be subject to a motion or other form of legal process seeking the disclosure of another Party's or non-Party's information designated as Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material pursuant to this Order: (a) shall promptly notify that Party or non-Party so that it may have an opportunity to appear and be heard on whether that information should be disclosed; and (b) shall not provide such materials unless required by law or with the consent of the Producing Person. Nothing herein shall be construed as requiring the Party required by law to disclose Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material to challenge or appeal any order directing production of such information, or to subject itself to any penalties for non-compliance with any legal process or order.

23. Following a Producing Person's production or dissemination of Discovery Material, the inadvertent failure to designate particular Discovery Material as "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Advisors' Eyes Only" at the time of production shall not operate to waive a Party's right to later designate such Discovery Material as "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Advisors' Eyes Only".

24. If information subject to a claim of attorney-client privilege, work product immunity, or other privilege is inadvertently or mistakenly produced, such production will in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of privilege or work-product immunity for such information.

25. The provisions of this stipulation and Order shall be binding on the Parties hereto pending entry of the Order and regardless of whether this Order is approved and/or entered by the Court.

26. The provisions of this Order shall survive the final termination of the Proceedings for any retained Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material.

27. This Order has no effect on, and shall not apply to, a Producing Person's use or disclosure of its own Discovery Material for any purposes whatsoever.

[Signature Pages Follow]

WE ASK FOR THIS:

/s/ Michael A. Condyles
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Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)
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-and-

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Facsimile: (312) 862-2200

*Counsel for the Debtors and
Debtors in Possession*

THIS STIPULATION IS SO ORDERED:

Dated: Jul 29 2015
Richmond, Virginia

/s/ Keith L. Phillips
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: Jul 29 2015

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/ Michael A. Condyles

Exhibit A

Declaration of Acknowledgement

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*Counsel for the Debtors and
 Debtors in Possession*

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

)	
In re:)	Chapter 11
)	
PATRIOT COAL CORPORATION, <u>et al.</u> ,)	Case No. 15-32450 (KLP)
)	
Debtors.)	(Jointly Administered)
)	

**DECLARATION OF ACKNOWLEDGEMENT AND
 AGREEMENT TO BE BOUND BY STIPULATED PROTECTIVE ORDER**

I, _____, declare under penalty of perjury that:

1. My address is _____ .
2. My present employer is _____ .
3. My present occupation or job description is _____ .

4. I hereby certify and agree that I have read and understand the terms of the Stipulated Protective Order to which this Declaration of Acknowledgement was attached as **Exhibit A**.¹ I further certify that I will not use Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material for any purpose other than this litigation among the Parties, and will not disclose or cause Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material to be disclosed to anyone not expressly permitted by the Order to receive Confidential Material, Attorneys' Eyes Only Material, and/or Outside Advisors' Eyes Only Material, as the case may be. I agree to be bound by the terms and conditions of the Order, regardless of whether the Order is approved and/or entered by the Court.

5. I understand that I am to retain in confidence from all individuals not expressly permitted to receive information designated as "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Advisors' Eyes Only" whether at home or at work, all copies of any materials I receive which have been designated as "Confidential", "Confidential - Attorneys' Eyes Only", or "Confidential - Advisors' Eyes Only", and that I will carefully maintain such materials in a container, drawer, room or other safe place in a manner consistent with the Order. I acknowledge that the return or destruction of Confidential Material, Attorneys' Eyes Only Material, and/or Advisors' Eyes Only Material shall not relieve me from any other continuing obligations imposed upon me by the Order.

6. I acknowledge and agree that I am aware that by receiving Confidential Material, Attorneys' Eyes Only Material, and/or Advisors' Eyes Only Material: (a) I may be receiving material non-public information about the Debtors; and (b) there exist laws, including federal

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Order.

securities laws, that may restrict or eliminate the sale or purchase of securities and debt of the Debtors as a result of the receipt of such information.

7. I stipulate to the jurisdiction of this Court solely with respect to the provisions of the Order.

Date: _____

(Signature)