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

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

**DEBTORS' COMBINED MOTION FOR ENTRY OF
(A) AN ORDER ESTABLISHING BIDDING AND SALE PROCEDURES
FOR THE POTENTIAL SALE OF CERTAIN MINING PROPERTIES
AND RELATED ASSETS AND GRANTING RELATED RELIEF
AND (B) ONE OR MORE ORDERS APPROVING THE SALE OF SUCH PROPERTIES**

Alpha Natural Resources, Inc. ("ANR") and certain of its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors"), hereby move the Court, pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 6004-2 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the "Local Rules"), for the entry of:



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(i) an order (the "Bidding Procedures Order"), substantially in the form attached hereto as Exhibit A:

(a) approving proposed bidding and sale procedures attached as Annex 1 to the Bidding Procedures Order (the "Bidding Procedures") in connection with the potential sale (each a "Sale Transaction") of certain of the Debtors' mining properties, assets and related infrastructure, as described in more detail on Annex A to the Bidding Procedures¹ (collectively, as amended, modified or supplemented from time to time, the "Assets");

(b) scheduling, as necessary, one or more auctions (each, an "Auction") and final sale hearings (each, a "Sale Hearing") in connection with the Sale Transactions;

(c) establishing procedures for the assumption and assignment of executory contracts and unexpired leases ("Executory Contracts") in connection with the Sale Transactions, including notice of proposed cure amounts (the "Assumption and Assignment Procedures"), and approving the form and manner of notice of the proposed assumption and assignment of Executory Contracts in the form attached hereto as Exhibit B (the "Assumption and Assignment Notice");

(d) approving the form and manner of notice of any Auction and the Sale Hearing, including the form and manner of notice attached hereto as Exhibit C (the "Auction and Hearing Notice"); and

(e) granting certain related relief as described herein; and

(ii) with respect to each Asset or group of Assets to be sold pursuant to the Bidding Procedures, an order (each, a "Sale Order");

¹ The schedule of Assets attached as Annex A to the Bidding Procedures is referred to herein as the "Asset Schedule."

(a) authorizing the Sale Transaction to the successful bidder, free and clear of all liens, claims and encumbrances, except for certain assumed liabilities;

(b) authorizing the assumption and assignment of certain Executory Contracts (if any) in connection with such Sale Transaction; and

(c) granting such other relief as is proposed in the Sale Order.

In support of this Motion, the Debtors respectfully represent as follows:

Background

1. On August 3, 2015 (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By order of the Court (Docket No. 129), the Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. A comprehensive description of the Debtors' businesses and operations, capital structure and the events leading to the commencement of these chapter 11 cases can be found in the amended declarations of (a) Kevin S. Crutchfield, Chief Executive Officer and Chairman of the Board of Directors of ANR (Docket No. 45), and (b) Philip J. Cavatoni, Executive Vice President and Chief Financial and Strategy Officer of ANR (Docket No. 46), each of which was filed on the Petition Date.

Jurisdiction

3. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Facts Relevant to This Motion

4. With the assistance of their advisors, the Debtors are in the process of developing and implementing a comprehensive long term business plan to address the unprecedented market challenges affecting the Debtors (the "Business Plan"). Consistent with the terms of the Debtors' postpetition financing facility, the Debtors currently anticipate finalizing an initial draft of their Business Plan by the end of October 2015.²

5. In connection with the preparation of the Business Plan, the Debtors are developing a list of certain mining properties and related assets that they will seek to dispose of in connection with their reorganization. To date, the Debtors have identified the Assets on the Asset Schedule attached to this Motion for potential disposition, which are comprised of Assets relating to closed and idled mines (collectively, "Inactive Mines") that (a) are not generating revenue for the Debtors' businesses but (b) impose reclamation, maintenance and other costs on the Debtors' estates. Although the Asset Schedule currently includes only Assets relating to Inactive Mines, as further described below, the Debtors may amend the Asset Schedule as part of the proposed Bidding Procedures to include additional Assets, such as any

² See Section 5.17(a) of the First Out DIP Credit Agreement, as defined in, and attached as Exhibit B to, the *Final Order (I) Authorizing Debtors (A) To Obtain Post-Petition Financing Pursuant to Authorizing (A) Authorizing The Debtors 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) and 364(e), and (B) To Utilize Cash Collateral Pursuant to 11 U.S.C. § 363 and (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507(b)* (Docket No. 465) (the "Final DIP Order") (requiring to the delivery of an "Agreed Business Plan" no later than October 30, 2015).

other non-core assets identified in the Business Plan.³ The Debtors also may remove any Assets from the Asset Schedule if they determine that a sale of such Assets ultimately will not be pursued under the Bidding Procedures.

6. A significant number of the Assets relating to the Inactive Mines previously have been marketed for sale, and the Debtors believe that the Bidding Procedures will maximize their ability to bring any sales of such Assets to a prompt conclusion. Such sales will help the Debtors monetize the Assets and free the Debtors from incurring additional expenses relating to these properties. Similarly, the Bidding Procedures are expected to help maximize the value of the non-core assets that may be added to the Asset Schedule.

7. The Debtors propose to sell the Assets free and clear of liens, claims and encumbrances and to assume and assign to buyers certain Executory Contracts in connection therewith. The Debtors are prepared to conduct a robust public sale process to provide an opportunity for parties to purchase all or any portion of the Assets. Where appropriate (e.g., where there are multiple bids for an Asset), this process may include one or more Auctions. With the assistance of their investment banker, Rothschild Inc. ("Rothschild"), the Debtors anticipate completing a comprehensive marketing process in an effort to sell the Assets on the best terms possible. The Debtors will market the Assets to financial and strategic buyers, some of whom already have been contacted. The proposed Bidding Procedures are designed to provide the Debtors with the flexibility necessary to allow the Debtors to maximize the value of the Assets.⁴

³ Pursuant to Section 6.05(j) of the First Out DIP Credit Agreement, the Debtors are permitted to pursue sales of assets consistent with their Agreed Business Plan (as defined therein).

⁴ To the extent that the Debtors are unable to sell certain of the Assets after marketing them through the Bidding Procedures, they will be better positioned to evaluate alternatives for such Assets.

Relief Requested and Basis Thereof

8. By this Motion, the Debtors seek entry of the Bidding Procedures Order:
 - a. approving (i) the Debtors' proposed Bidding Procedures for marketing the Assets, which procedures are attached as Annex 1 to the Bidding Procedures Order; (ii) the Auction and Hearing Notice; and (iii) the Assumption and Assignment Notice;
 - b. approving procedures to determine cure amounts for the Debtors' Executory Contracts that may be assumed and assigned to a buyer in connection with any Sale Transaction;
 - c. establishing January 20, 2016 at 5:00 p.m. (prevailing Eastern Time) as the deadline for the submission of bids (the "Bid Deadline");
 - d. scheduling an initial Auction, if necessary, to be conducted on January 27, 2016; and
 - e. scheduling an initial Sale Hearing for the first week of February 2016, subject to the Court's availability, to consider the sale of the Assets to any successful bidders.

As described in detail in the Bidding Procedures, the Debtors reserve the right to modify these dates as necessary or appropriate in their discretion to promote the sale of the Assets in manner that maximizes their value to the Debtors' estates.

9. In addition, for any Sale Transaction under the Bidding Procedures, and after further notice of the terms of such transaction, the Debtors respectfully request the entry of a Sale Order:

- a. approving the sale of all or any portion of the Assets to any successful bidders at the Auction free and clear of all liens, claims and encumbrances except for certain assumed liabilities;
- b. approving the assumption and assignment of Executory Contracts in connection with each Sale Transaction;
- c. finding that the any successful bidder is a "good faith purchaser," as that term is defined in section 363(m) of the Bankruptcy Code, and has not violated section 363(n) of the Bankruptcy Code;

- d. waiving the 14 day stay requirements of Bankruptcy Rules 6004(h) and 6006(d); and
- e. granting certain related relief.

I. Overview of the Proposed Bidding Procedures

10. The Bidding Procedures have been developed by the Debtors and their advisors to provide the best opportunity available to achieve value-maximizing sales of the Assets. The following is a summary of the Debtors' proposed Bidding Procedures, which are incorporated herein in their entirety:

11. Initial Marketing. The Debtors, in consultation with Rothschild and the Consultation Parties,⁵ are developing a list of parties that the Debtors believe may be interested in, and that the Debtors reasonably believe would have the financial resources to consummate, a sale transaction for some or all of the Assets, (each, individually, a "Contact Party" and, collectively, the "Contact Parties"). The Debtors and Rothschild have contacted or will contact the Contact Parties to explore their interest in pursuing a purchase of all or some of the Assets. The Contact Parties may include parties that the Debtors or their advisors previously have contacted regarding a transaction, regardless of whether such parties expressed any interest at such time in pursuing a transaction. The Debtors will continue to discuss the marketing process with the Consultation Parties and may supplement the list of Contact Parties throughout the marketing process, as appropriate.

12. The Debtors may distribute to each Contact Party and any other interested party or potential bidder an "Information Package" consisting of: (a) a cover letter; (b) a copy of

⁵ As defined in the Bidding Procedures, "Consultation Parties" means, collectively: (a) counsel or financial advisors to the statutory committee of unsecured creditors appointed in the Debtors' chapter 11 cases (the "Committee"), (b) counsel or financial advisors to the DIP Agents (as defined in the Final DIP Order); (c) counsel or financial advisors to the Pre-Petition Agent (as defined in the Final DIP Order); and (d) counsel or financial advisors to the *ad hoc* group of Second Lien Noteholders (as defined in the Final DIP Order).

the Bidding Procedures and the Bid Procedures Order; (c) a copy of a confidentiality agreement; (d) copies of a form Asset Purchase Agreement (an "APA") and a form of a proposed Sale Order;⁶ and (d) such other materials as the Debtors and Rothschild deem appropriate under the circumstances, including, but not limited to, preliminary "teaser" information appropriate to enable each Contact Party or other potential bidder to identify and make an initial evaluation of the Assets.

13. Participation Requirements. To participate in the bidding process, each person or entity must execute a confidentiality agreement in form and substance satisfactory to the Debtors, after consultation with the Consultation Parties, at which point such party will be deemed a "Potential Bidder" and the Debtors will deliver to such Potential Bidder access to the Debtors' confidential electronic data room concerning the Assets (the "Data Room"). The Debtors also will provide access to the Data Room to the Consultation Parties subject to confidentiality arrangements with those parties.

14. Preliminary Indication of Interest. To continue to participate in the bidding process, a Potential Bidder must provide a nonbinding written proposal (a "Preliminary Indication of Interest") that includes (a) a preliminary indication of the Assets on which the Potential Bidder intends to bid, identifying in particular each Asset that the Potential Bidder may seek to purchase; (b) the proposed purchase price or price range for such Assets, including the potential forms of consideration and any debt or equity financing that the Potential Bidder expects to use to consummate the sale, in each case allocated to each applicable Asset as identified on the Asset Schedule; (c) any anticipated regulatory approvals required to close the proposed Sale Transaction and the anticipated time frame and any anticipated impediments for

⁶ When available, the Debtors will file the proposed form of APA and Sale Order with the Court. In addition, the Debtors may propose alternate forms of APA for different types of Assets.

obtaining such approvals; (d) the nature and extent of additional due diligence the Potential Bidder wishes to conduct; and (e) any additional information reasonably requested by the Debtors regarding such Potential Bidder, its proposal and its operational and financial ability to consummate such proposal.

15. Each Preliminary Indication of Interest must be provided to the following parties (collectively, the "Debtor Notice Parties") via e-mail on or before **December 11, 2015 at 5:00 p.m.** (prevailing Eastern Time) (the "PII Deadline"): (a) the Debtors, Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel), email: rverheij@alphanr.com; (b) counsel to the Debtors, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.), email: ceblack@jonesday.com and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.), e-mail jbellman@jonesday.com; (c) co-counsel to the Debtors, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.), email: tpbrown@hunton.com; and (d) the Debtors' investment banker, Rothschild Inc., 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Homer Parkhill), email: homer.parkhill@rothschild.com. At the Debtors' discretion, a Potential Bidder's access to the Data Room and other due diligence materials will terminate if they fail to deliver a Preliminary Indication of Interest on or before the PII Deadline.

16. Due Diligence. The Debtors will establish a Data Room containing information about the Assets and the Bidding Procedures (including the form APA and form Sale Order). All Potential Bidders will be granted full access to the Data Room by Rothschild. The Debtors, with the assistance of Rothschild, will coordinate all reasonable requests for

additional information and due diligence access from Potential Bidders. In the event that any such due diligence material is in written form and has not previously been provided to any other Potential Bidder, subject to any confidentiality issues related to the material, the Debtors will simultaneously provide access to such materials to all Potential Bidders and the Consultation Parties.

17. Bid Deadline. On or before the Bid Deadline (i.e., January 20, 2016 at 5:00 p.m., prevailing Eastern Time), a Potential Bidder that desires to make a bid is required to deliver written copies of its bid in both Portable Document Format (.pdf) and Microsoft Word (.doc/.docx) format to the Debtor Notice Parties.

18. Bid Requirements. To be a "Qualified Bid" under the Bidding Procedures, a bid must: (a) identify the legal name of the Potential Bidder (including any direct or indirect equity holders or other financial backers, if the Potential Bidder is an entity formed for the purpose of consummating the proposed Sale Transaction); (b) provide that the Potential Bidder offers to purchase the Assets or a portion thereof at the purchase price and upon the terms and conditions set forth in a copy of the form APA and the form Sale Order enclosed therewith, marked to show any proposed amendments and modifications (collectively, the "Marked Agreements"); (c) if a Potential Bidder seeks to buy all or a portion of more than one Asset as listed on the Asset Schedule, identify the allocation of the proposed Purchase Price to each Asset (or portion thereof) and state the willingness of the Potential Bidder to purchase each Asset or a portion thereof separately from any other Assets that are part of its bid; (d) state that all necessary filings under applicable regulatory, antitrust and other laws or regulations will be made, pursuant to the terms and conditions in the Marked Agreements or other bid documents (collectively, the "Bid Documents"), and that payment of the fees associated with such filings

will be made by the Potential Bidder; (e) identify all Executory Contracts to be assumed and assigned in connection with the proposed Sale Transaction and state that all cure costs related thereto will be paid by the Potential Bidder; (f) be formal, binding and unconditional (except for those conditions expressly set forth in the Marked Agreements, not subject to any due diligence and irrevocable until the earlier of April 30, 2016 and the first business day following the closing of the Sale Transaction; (g) for the purchase of any coal mining properties, contemplate taking transfer of, or obtaining overlapping permits with respect to, the Debtors' applicable mining permits, and provide evidence that the Potential Bidder is capable of taking transfer of such permits and has the financial resources necessary to obtain or replace financial assurance/reclamation surety bonds associated with such permits; (h) include a commitment to close the transactions contemplated by the bid as promptly as possible; (i) not entitle such Potential Bidder to a breakup fee, termination fee, expense reimbursement or similar type of payment or reimbursement and include an express waiver of any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code related to bidding for any of the Assets; (j) be accompanied by the Good Faith Deposit (as defined below) in immediately available funds; (k) include an acknowledgment that the Sale Transaction will be on an "as is, where is" basis and without representations or warranties of any kind by the Debtors, their agents or the Debtors' chapter 11 estates, except and solely to the extent expressly set forth in the final APA and Sale Order presented for approval by the Bankruptcy Court; (l) include an acknowledgment that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the Assets that are the subject of the Auction prior to making its bid, that it has relied solely upon its own independent review and investigation in making its bid, and that it did not rely on the completeness of any information provided in connection with the Auction or

its bid; (m) include an acknowledgment that the Potential Bidder has not engaged in any collusion with respect to the Bidding Process and its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder; and (n) be received by the Bid Deadline (collectively, the "Minimum Bid Requirements").

19. Additional Supporting Information. At the Debtors' request, after consultation with the Consultation Parties prior to, on or after the Bid Deadline, a Potential Bidder must accompany or support its bid with, as applicable: (a) written evidence of available cash, a commitment for financing (not subject to any conditions other than those expressly set forth in the applicable Bid Documents) or such other evidence of ability to consummate the transaction contemplated by the Bid Documents (and, as applicable, to provide adequate assurance of future performance of all Executory Contracts and other obligations to be assumed in such Sale Transaction) as the Debtors may reasonably request; (b) a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed; (c) a covenant to cooperate with the Debtors to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements or regulations; (d) if the purchase price includes non-cash consideration (other than the assumption of liabilities), an analysis in reasonable detail of the value of the non-cash consideration (it being understood that a credit bid under section 363(k) of the Bankruptcy Code will be treated as cash); and (e) other documentation as requested by the Debtors (the foregoing, together with the Minimum Bid Requirements, the "Bid Materials").

20. Bid Deposit. A Potential Bidder must deposit with the Debtors a cash deposit equal to either (a) 10% of the cash consideration payable at closing pursuant to the

applicable Bid Documents, with a minimum deposit of \$100,000 or (b) such other amount as may be agreed upon by the Debtors after consultation with the Consultation Parties (any such deposit, a "Good Faith Deposit"). The Good Faith Deposit must be made by wire transfer and will be held by the Debtors in a segregated bank account established and maintained in accordance with the Final DIP Order.

21. Determination of Qualified Bids. If a bid is received and, in the Debtors' judgment, it is not clear to the Debtors whether the bid is a Qualified Bid, the Debtors may consult with the Potential Bidder and seek additional information in an effort to establish whether or not a bid is a Qualified Bid, or to address any deficiencies in the bid. No later than one business day after the Bid Deadline, the Debtors shall provide copies of all bids received by the Debtors to each of the Consultation Parties.

22. The Debtors, in their discretion and after consultation with the Consultation Parties, will determine whether a bid received from a Potential Bidder for any of the Assets constitutes a "Qualified Bid" and whether a Potential Bidder that submits such a bid will be considered a "Qualified Bidder." The Debtors reserve the right to impose additional terms and conditions with respect to Qualified Bidders not otherwise inconsistent with the Bidding Procedures. Further, after consultation with the Consultation Parties, the Debtors may, in their discretion, withdraw some or all of the Assets from the sale process at any time before entry of an order approving a sale of the Assets to a Qualified Bidder.

23. Considerations in Comparing and Valuing Bids. In determining whether the terms of the bid or bids for any portion of the Assets are materially more burdensome or conditional than the terms of another bid, and in valuing such bids, the Debtors may take into consideration: (a) the purchase price and whether the bid or bids includes a non-cash instrument

or similar consideration that is not freely marketable; (b) the overall value to be provided to the Debtors under the bid, including the net economic effect upon the Debtors' estates; (c) indemnification and other provisions; (d) the ability to obtain any and all necessary antitrust or other applicable regulatory approvals for the proposed Sale Transaction; (e) other contingencies and the ability to close the proposed Sale Transaction on a basis acceptable to the Debtors, and any incremental costs to the Debtors as a result of potential closing delays; and (f) any other factors the Debtors, after consultation with the Consultation Parties, may deem relevant.

24. Baseline Bids. Only Qualified Bidders and other Potential Bidders who submit requested Bid Materials and are invited by the Debtors, in their discretion, to participate in an Auction, are eligible to participate in the Auction. The Debtors, after consultation with the Consultation Parties, will select what they determine to be the highest and/or best Qualified Bid or combination of bids that together constitute a Qualified Bid for any portion of the Assets (the "Baseline Bid(s)") to serve as the starting point at the Auction, taking into account all relevant considerations, including the financial condition of the applicable bidder and certainty of closing, as described above. Different Assets as identified on the Asset Schedule or other subsets of the Assets or combinations thereof (a) may be subject to separate bidding at the Auction; or (b) in the Debtors' discretion, may be scheduled for Auction on different dates.

25. Treatment of Assets with Only One Qualified Bid. If only one Qualified Bid is received for any particular set of Assets, after consultation with the Consultation Parties, the Debtors in their discretion may either designate such Qualified Bid to be the Successful Bid (as defined below) for such Assets without conducting the Auction with respect to such Assets or submit the Assets at issue to an Auction, with other Potential Bidders invited to participate.

26. Auction. If at least two Qualified Bids in respect of any of the Assets (in whole or in part) are received by the Bid Deadline, the Debtors will conduct the Auction for the Assets for which multiple Qualified Bids were received; provided, however, that if a Qualified Bid includes Assets not covered by any other Qualified Bids (a "Unique Bid") and other bidders do not express an interest in purchasing the additional Assets included in the Unique Bid, the Debtors may determine, after consultation with the Consultation Parties, to designate the Unique Bid as the Successful Bid for the applicable Assets and not conduct an Auction for such Assets. As described above, even where there is only one Qualified Bid for certain Assets, the Debtors also may submit these Assets to the Auction.

27. Time, Place and Conduct of an Auction. Any Auction will take place at offices of the Debtors' counsel, Jones Day, at 222 East 41st Street, New York, New York 10017, at 10:00 a.m. (prevailing Eastern Time) on the Auction Date (i.e., January 27, 2016), or such other time and place as the Debtors, after consultation with the Consultation Parties, may notify Qualified Bidders who have submitted Qualified Bids. After consultation with the Consultation Parties, the Debtors may schedule Auctions for certain Assets on alternate dates before or after the original Auction Date. Only a Qualified Bidder or a Potential Bidder invited by the Debtors to participate at the Auction will be eligible to participate at the Auction, subject to such limitations as the Debtors may impose after consultation with the Consultation Parties. A reasonable number (as determined by the Debtors) of representatives of the Qualified Bidders, Potential Bidders invited to participate and each Consultation Party will be permitted to attend and observe the Auction. A transcript of the Auction proceedings will be created.

28. Rules of the Auction. After consultation with the Consultation Parties, the Debtors may at any time adopt rules for the Auction that the Debtors reasonably determine to

be appropriate to promote the goals of the bidding process, including one or more adjournments of the Auction. The rules of the Auction will be announced on the record at the outset of the Auction.

29. Bidding at an Auction. At the Auction, participants will be permitted to increase their bids and improve their terms; provided that any such increased or improved bid or combination of bids must be a Qualified Bid (except that the Bid Deadline will not apply). Bidding for any part of the Assets will start at the purchase price and terms proposed in the applicable Baseline Bid(s). The Debtors will announce the bidding increments for bids and other auction rules at the outset of the Auction with respect to the Assets, as applicable. Without limiting any other right of the Debtors to establish the rules of the Auction, the Debtors reserve all rights to require any Qualified Bidders submit their last and final bids on a "blind" basis.

30. Designation of Successful Bid and Next Best Bid. Prior to the conclusion of the Auction, and after consultation with the Consultation Parties, the Debtors will: (a) review and evaluate each bid made at the Auction on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale Transaction; (b) in the exercise of their good faith business judgment and consistent with the Bidding Procedures, identify the highest or otherwise best offer or collection of offers in respect of the Assets (the "Successful Bid(s)"); and (c) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of the successful bidder or bidders (the "Successful Bidder(s)") and the amount and other material terms of the Successful Bid(s). Absent irregularities in the conduct of the Auction or reasonable and material confusion during the bidding, each as determined by the Court, the Debtors will not consider bids made after the Auction has been closed.

31. Next Highest Bidder. After determining the Successful Bid(s) for the Assets, the Debtors may determine, in their reasonable business judgment, after consultation with the Consultation Parties, which Qualified Bid(s) are the next best bids for the Assets (the "Next Best Bid(s)").

32. Acceptance of Qualified Bids. The Debtors presently intend to consummate the Sale Transaction(s) with the Successful Bidder(s); however, the Debtors' presentation of the Successful Bid(s) to the Court for approval does not constitute the Debtors' acceptance of such bid(s). The Debtors will be deemed to have accepted a Successful Bid only when an APA therefor has been executed and such bid has been approved by entry of the applicable Sale Order. If a Successful Bidder does not close the applicable Sale Transaction contemplated by the applicable Successful Bid by the date agreed to by the Debtors and such Successful Bidder, then the Debtors will be authorized, but not required, to close with the party that submitted the applicable Next Best Bid, pursuant to the applicable Sale Order.

33. Modification of Bidding Procedures. After consultation with the Consultation Parties, the Debtors may amend the Bidding Procedures or the bidding process at any time and from time to time in any manner that they determine in good faith will best promote the goals of the bidding process, including extending or modifying any of the dates described therein or the information and material required from Qualified Bidders.

34. Modification of Asset Schedule. At any time in the marketing and bidding process and after consultation with the Consultation Parties, the Debtors may remove Assets from or add Assets to the Asset Schedule by filing an updated Asset Schedule with the Court and serving the updated Asset Schedule on the Potential Bidders and, in the Debtors' discretion, any additional Contact Parties. In addition, for the avoidance of doubt, the Debtors reserve the right

to seek approval of the sale of any Assets as a private sale on separate motion and notice to interested parties.

35. Notice of Successful Bid. Following the designation of a Successful Bid, the Debtors will file a notice of the Successful Bid, along with copies of the proposed APA and Sale Order, marked to show changes from the form documents previously filed with the Court (a "Notice of Successful Bid"). A Notice of Successful Bid shall be filed not less than five business days before the Sale Hearing and will be served on (a) the U.S. Trustee; (b) each of the Consultation Parties; (c) the Potential Bidders; (d) any party that previously had filed an objection to the proposed sale; (e) the attorneys general for each of the States in which the applicable Assets are located; (f) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (g) the United States Environmental Protection Agency and applicable environmental regulators in the States in which the relevant Assets are located; (h) all sureties that have issued bonds relating to the applicable Assets; (i) the Pension Benefit Guaranty Corporation; (j) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002(i); (k) all parties that are known or reasonably believed by the Debtors to have asserted any lien, encumbrance, claim or other interest in the applicable Assets; (l) all other governmental agencies that are known or reasonably believed by the Debtors to be an interested party with respect to the particular Sale Transaction; and (m) all non-Debtor parties to the applicable Assumed and Assigned Agreements (as defined below).

36. Sale Hearing and Objections. Any objections to the approval of such Sale Transaction shall be filed (a) no later than January 20, 2016 for all general objections to the potential Sale Transactions and the terms contained in the forms of APA and Sale Order filed with the Court and (b) by the earlier of (i) five business days after the filing and service of Notice

of Successful Bid and (ii) two business days before a Sale Hearing solely for any additional issues raised by the Notice of Successful Bid (i.e., the revised form of APA and proposed Sale Order). Objections to the proposed assumption and assignment of Executory Contracts and related Cure Costs will be subject to the separate procedures described below and set forth in the Bid Procedures Order.

37. At the Sale Hearing, the Debtors will seek the entry of one or multiple Sale Orders substantially the form of the order filed with the Court, *inter alia*, authorizing and approving the sale of all or some of the Assets, to the Successful Bidder(s) pursuant to the terms and conditions set forth in the Successful Bid(s), with such modifications as may be negotiated by the parties.

38. The Sale Hearing for some or all of the Assets may be adjourned or rescheduled by the Debtors in their discretion (after consultation with the Consultation Parties) without notice or with limited and shortened notice to parties, including by (a) an announcement of such adjournment at the Sale Hearing or at an Auction or (b) the filing of a notice of adjournment with the Court prior to the commencement of the Sale Hearing (which may be included in a hearing agenda letter).

39. Return of Good Faith Deposit. The Good Faith Deposits of all Qualified Bidders will be held in escrow by the Debtors and while held in escrow will not become property of the Debtors' bankruptcy estates unless released from escrow pursuant to further order of the Court or upon a breach by a Successful Bidder of the Successful Bid agreement. The Debtors will retain the Good Faith Deposits of the Successful Bidder(s) until the closing of the Sale Transaction(s) unless otherwise ordered by the Court. The Good Faith Deposits of the other Qualified Bidders will be returned on the earlier of May 2, 2016 and the third business day

following the closing of the Sale Transaction. At the closing of the Sale Transaction contemplated by the Successful Bid, the Successful Bidder will be entitled to a credit for the amount of its Good Faith Deposit (not including interest accrued thereon) against the cash purchase price, or the return of the Good Faith Deposit, as applicable. Upon the return of the Good Faith Deposits, their respective owners will receive any and all interest that has accrued thereon.

40. Stalking Horse Bids. The Debtors reserve the right, in an exercise of their business judgment and after consultation with the Consultation Parties, to identify a bid with respect to certain Assets submitted by a Potential Bidder as a "stalking horse bid" and to seek Court approval of bid protections with respect to such bid.

41. The Debtors believe that the proposed Bidding Procedures provide an appropriate framework for selling the Assets and will enable the Debtors to fully review, analyze and compare all bids received to determine which bid is in the best interests of the Debtors' estates.

II. Approval of the Bidding Procedures Is Warranted Under Section 363 of the Bankruptcy Code.

42. Section 363(b) of the Bankruptcy Code provides that a debtor "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Section 363(b) of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate; however, bankruptcy courts in this District and elsewhere have required that the authorization of such use, sale or lease of property of the estate out of the ordinary course of business be based upon the sound business judgment of the debtor. See In re W.A. Mallory Co., Inc., 214 B.R. 834, 836 (Bankr. E.D. Va. 1997) (adopting the "sound business

purpose" test for section 363 purposes and citing the Second Circuit's Lionel decision as authority therefor); In re WBQ P'ship v. Va. Dept. of Med. Assistance Servs. (In re WBQ P'ship), 189 B.R. 97, 102 (Bankr. E.D. Va. 1995) (same); see also In re Lionel Corp., 722 F.2d 1063, 1070 (2d Cir. 1983) (requiring "some articulated business justification" to approve the use, sale or lease of property outside the ordinary course of business).

43. A sound business purpose for the sale of a debtor's assets outside the ordinary course of business may be found where such a sale is necessary to preserve the value of assets for the estate, its creditors or interest holders. See, e.g., Lionel, 722 F.2d at 1070. Once a debtor articulates a valid business justification for its actions, courts should "give great deference to the substance of the directors' decision and will not invalidate the decision, will not examine its reasonableness, and will not substitute its views for those of the board if the latter's decision can be attributed to any rational business purpose." In re Global Crossing Ltd., 295 B.R. 726, 744 (Bankr. S.D.N.Y. 2003) (citing Paramount Commc'ns Inc. v. QVC Network Inc., 637 A.2d 34, 45 n.17 (Del. 1994)); accord Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1990) (presuming, based on the business judgment rule, "that in making a business decision the directors of [the debtor] acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company") (quoting Smith v. Van Gorkom, 488 A.2d 858, 872 (Del. 1985)); In re Johns-Manville Corp., 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct."). Thus, if a debtor's actions satisfy the business judgment rule, then the transaction in question should be authorized under section 363(b)(1) of the Bankruptcy Code.

44. Here, the Debtors have determined that the Assets are not necessary to their ongoing businesses or restructuring. In particular, the Assets identified to date on the Asset Schedule relate to Inactive Mines that are not being operated, generate no revenue for the Debtors and instead impose costs on the Debtors' estates for reclamation, maintenance and other expenses of ownership and control. The Debtors have determined that the sale of these Assets on appropriate terms will help maximize their value for the estates and minimize ongoing costs. Any additional Assets added to the Asset Schedule will be included in the Bidding Procedures only to the extent that the Debtors determine that such Assets are not necessary for the Business Plan or otherwise may bring maximum value for the Debtors' estates through a sale. As such, the Debtors have properly exercised their business judgment to pursue a sale of the Assets through the Bidding Procedures. In addition, the Debtors will further exercise their business judgment in evaluating and accepting or rejecting any bids received in bidding process.

45. The Debtors also have determined that the Bidding Procedures provide an appropriate mechanism to pursue value maximizing Sale Transaction for the Assets. The Bidding Procedures were developed by the Debtors in consultation with Rothschild based on its knowledge of the Assets and experience in other chapter 11 cases. The Bidding Procedures were designed to promptly pursue market interest in the Assets, while providing the Debtors with appropriate flexibility to promote the best outcome possible. The fairness and reasonableness of the consideration to be paid by the Successful Bidder(s) ultimately will be demonstrated by adequate "market exposure" and an open and fair bidding process (including, where appropriate, an auction)—the best means for establishing whether a fair and reasonable price is being paid. Notice of this process will be widely circulated to interested parties.

46. Similar procedures have been approved by this Court in other complex chapter 11 cases. See, e.g., Patriot Coal Corp., No. 15-32450 (KLP) (Bankr. E.D. Va. June 25, 2015); James River Coal Co., No. 14-31848 (KRH) (Bankr. E.D. Va. May 9, 2014); In re RoomStore, Inc., No. 11-37790 (DOT) (Bankr. E.D. Va. Jan. 3, 2012); In re Movie Gallery, Inc., No. 10-30696 (DOT) (Bankr. E.D. Va. Oct. 27, 2010); In re LandAmerica Fin. Grp., Inc., No. 08-35994 (KRH) (Bankr. E.D. Va. April 16, 2009); In re Circuit City Stores, Inc., No. 08-35653 (KRH) (Bankr. E.D. Va. Mar. 3, 2009); In re S & K Famous Brands, Inc., No. 09-30805 (KRH) (Bankr. E.D. Va. Feb. 9, 2009); In re Chesapeake Corp., No. 08-36642 (DOT) (Bankr. E.D. Va. Jan. 20, 2009).

47. Accordingly, the Bidding Procedures should be approved, and the Debtors should be authorized to sell the Assets thereunder, subject to the Court's review and approval of the specific terms of each Sale Transaction at the Sale Hearing.

III. The Proposed Notice of the Sale Hearing Is Adequate and Appropriate.

48. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide their creditors with 21 days notice of the Sale Hearing. Pursuant to Bankruptcy Rule 2002(c), such notice must include the date, time and place of the potential Auction and the Sale Hearing, and the deadline for filing any objections to the relief requested in the Sale Motion. As noted above, the Debtors propose that the deadline for objecting to approval of the proposed Sale Transaction(s) be (a) no later than January 20, 2016 for all general objections to the potential Sale Transactions and the terms contained in this Motion and the forms of APA and Sale Order to be filed with the Court (the "Objection Deadline") and (b) the earlier of (i) five business days after the filing and service of Notice of Successful Bid and (ii) two business days before a Sale Hearing solely for any additional issues raised by the Notice of Successful Bid (i.e., by the revised APA and proposed Sale Order) (the "Supplemental Objection Deadline").

49. Within ten business days after entry of the Bidding Procedures Order,⁷ the Debtors will serve the proposed Auction and Hearing Notice by first-class mail, postage prepaid upon the following parties (collectively, the "Notice Parties"): (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel to the DIP Agents; (d) counsel to the Pre-Petition Agent; (e) counsel to the *ad hoc* group of Second Lien Noteholders; (f) the attorneys general for each of the States in which the Assets are located; (g) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (h) the United States Environmental Protection Agency and applicable environmental regulators in the States in which the Assets are located; (i) all sureties that have issued bonds relating to the Assets; (j) the Pension Benefit Guaranty Corporation; (k) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002(i); (l) all parties that are known or reasonably believed to have expressed an interest in acquiring the Assets; (m) all parties that are known or reasonably believed by the Debtors to have asserted any lien, encumbrance, claim or other interest in the Assets; (n) all other governmental agencies that are known or reasonably believed by the Debtors to be an interested party with respect to any Sale Transaction; (o) all non-Debtor parties to the Assumed and Assigned Agreements; and (p) all other parties identified by the Debtors as having a particular interest in the Assets.⁸

⁷ In addition, within ten business days after the Debtors add any Assets to the Asset Schedule, the Debtors will file a copy of the revised Asset Schedule (the "Revised Asset Schedule") and will serve the Revised Asset Schedule on the Notice Parties (along with the Auction and Hearing Notice if not previously served on such party). The Objection Deadline solely with respect to Assets added to the Asset Schedule will be the later of January 20, 2016 and seven business days after filing and service of the Revised Asset Schedule.

⁸ Bankruptcy Rule 2002(a)(2) provides that a debtor provide notice to "all creditors" of a proposed sale of property outside of the ordinary course of business, unless the court for cause shown orders otherwise. Fed. R. Bankr. P. 2002(a)(2). Given the significant number of creditors in these cases, providing notice to "all creditors" would be prohibitively expensive, and the Debtors submit that limiting notice to the aforementioned parties will ensure that all parties that may have some interest in the Assets will receive proper notice.

50. The Auction and Hearing Notice will indicate that copies of this Motion and any future sale documents, if applicable (including the Bidding Procedures Order, forms of APA, the form of Sale Order and any Notice of Successful Bid), can be obtained on the website of the Debtors' claims and noticing agent, at <http://www.kccllc.net/alpharestructuring> (the "Restructuring Website"). In addition, within ten business days after entry of the Bidding Procedures Order, or as soon as practicable thereafter, the Debtors will cause the Auction and Hearing Notice to be (a) published for one day in the national edition of *The Wall Street Journal* and (b) posted on the Restructuring Website.

51. The Auction and Hearing Notice will include, among other things, the proposed date, time and place of the Auction and the Sale Hearing; information about the Assets, the sale process and the potential terms of sale; and the deadline for filing any objections to the relief requested in this Motion. Therefore, the Auction and Hearing Notice will comply with Bankruptcy Rule 2002(c). The Debtors submit that the methods of notice described herein comply fully with Bankruptcy Rule 2002 and constitute good and adequate notice of the proposed sale of the Assets.

IV. The Proposed Assumption and Assignment Procedures Are Adequate and Appropriate.

52. The Debtors may assume and assign certain Executory Contracts (the "Assumed and Assigned Agreements") as part of a Sale Transaction. By no later than ten business days after entry of the Bidding Procedures Order, the Debtors will file a schedule of cure obligations (the "Cure Schedule") for the Executory Contracts that they have identified as potential Assumed and Assigned Agreements. The Cure Schedule will include: (a) a summary description of each Executory Contract that potentially may be assumed and assigned to a potential buyer; and (b) the amount, if any, the Debtors believe would be necessary to cure

defaults under such agreements pursuant to sections 365(b)(1) and 365(f)(2)(A) of the Bankruptcy Code (the "Cure Costs"). Listing an Executory Contract on the Cure Schedule does not mean that a Successful Bidder ultimately will identify such agreement as an Assumed and Assigned Agreement in an APA. In addition, inclusion of any document in the Cure Schedule does not constitute, and not be deemed to be, a determination or admission by the Debtors or any Successful Bidder that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and all rights with respect thereto are being expressly reserved. The Cure Schedule may be amended or supplemented by the Debtors from time to time.

53. The Debtors will serve a copy of the relevant portion of the Cure Schedule, together with the Assumption and Assignment Notice, on each of the nondebtor counterparties to the agreements listed on the Cure Schedule by first class mail on the date that the Cure Schedule is filed with the Court. If the Debtors amend the Cure Schedule (e.g., to add additional Executory Contracts when the Asset Schedule is updated), the Debtors will serve copy of the relevant portion of the amended Cure Schedule, together with the Assumption and Assignment Notice, on each of the nondebtor counterparties to the agreements listed on the amended Cure Schedule by first class mail. The Debtors propose that any objections to the Cure Costs set forth on the Cure Schedule, must be in writing, filed with the Court, and be actually received by the Debtors' counsel on or before the later of January 11, 2016 and ten business days after service of the Assumption and Assignment Notice.

54. If no timely objections to the Cure Costs are received, then the Cure Costs set forth in the Cure Schedule will be binding upon the nondebtor counter parties to the Assumed and Assigned Agreements for all purposes in these chapter 11 cases and will constitute a final

determination of the total Cure Costs required to be paid by the Debtors in connection with the assumption and assignment of the Assumed and Assigned Agreements (unless a portion of such costs are paid or satisfied in any manner, in which case the Cure Costs will be reduced). In addition, all counterparties to the Assumed and Assigned Agreements will (a) be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts with respect to the Assumed and Assigned Agreements, and the Debtors and the Successful Bidder shall be entitled to rely solely upon the Cure Costs set forth in the Cure Schedule; and (b) be forever barred, estopped and permanently enjoined from asserting or claiming against the Debtors, any Successful Bidder or their respective property that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied under such Assumed and Assigned Agreement or that there is any objection or defense to the assumption and assignment of such Assumed and Assigned Agreement.

55. If a nondebtor counterparty to an Assumed and Assigned Agreement files an objection asserting a cure amount higher than the proposed Cure Costs (a "Disputed Cure Amount"), then (a) to the extent that the parties (including, if applicable, a Successful Bidder) are able to consensually resolve the Disputed Cure Amount prior to the Sale Hearing, the Debtors will promptly provide the Consultation Parties with notice and opportunity to object to such proposed resolution or (b) to the extent the parties are unable to consensually resolve the dispute prior to the Sale Hearing or any of the Consultation Parties raises an objection, the amount to be paid under section 365 of the Bankruptcy Code with respect to such Disputed Cure Amount will be determined at the Sale Hearing or at such other date and time as may be fixed by the Court. All other objections to the proposed assumption and assignment of an Assumed and Assigned Agreement will be heard at the Sale Hearing. The Debtors intend to cooperate with

counterparties to Assumed and Assigned Agreements to attempt to reconcile any differences with respect to a particular cure amount.

56. Upon the selection of a Successful Bidder for certain Assets, the Debtors will (a) file a Notice of Successful Bid, which will identify the Successful Bidder, the proposed terms of sale and the relevant Assumed and Assigned Agreements to be purchased by the Successful Bidder, and (b) serve such notice upon each non-debtor counterparty to the proposed Assumed and Assigned Agreements. The deadline for objecting solely to the assignment of the Assumed and Assigned Agreements to such Successful Bidder (including on the basis of adequate assurance of future performance as required by section 365(f)(2)(B) of the Bankruptcy Code) will be the earlier of (a) five business days after the filing and service of the Notice of Successful Bid and (b) two business days before the commencement of the Sale Hearing.

57. The Debtors request that any contract or lease counterparty that fails to object to the proposed Sale Transactions be deemed to consent to the treatment of its Executory Contract under section 365 of the Bankruptcy Code. See, e.g., Hargrave v. Twp. of Pemberton (In re Tabone, Inc.), 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (by not objecting to sale motion, creditor deemed to consent); Pelican Homestead v. Wooten (In re Gabeel), 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (same). Further, the Debtors request that each such party be deemed to consent to the assumption and assignment of its Executory Contract notwithstanding any anti-alienation provision or other restriction on assignment. See 11 U.S.C. §§ 365(c)(1)(B), 365(e)(2)(A)(ii) and 365(f).

V. The Sale Transactions Are Warranted Under Section 363 of the Bankruptcy Code.

58. A sale of the debtor's assets should be authorized pursuant to section 363 of the Bankruptcy Code if a sound business purpose exists for the proposed transaction. See, e.g., WBQ P'ship, 189 B.R. at 102; W.A. Mallory Co., 214 B.R. at 836; see also In re Martin, 91 F.3d 389, 395 (3d Cir. 1996) ("Under Section 363 [of the Bankruptcy Code], the debtor in possession can sell property of the estate . . . if he has an 'articulated business justification' . . ."). In this District, to sell assets pursuant to section 363(b) of the Bankruptcy Code, a debtor must demonstrate "(1) a sound business reason or emergency justifies a pre-confirmation sale; (2) the sale has been proposed in good faith; (3) adequate and reasonable notice of the sale has been provided to interested parties; and (4) the purchase price is fair and reasonable." WBQ P'ship, 189 B.R. at 102.

59. When a debtor demonstrates a valid business justification for a decision, a strong presumption arises "that in making [the] business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." Integrated Res., Inc., 147 B.R. at 656 (holding that the business judgment rule has "vitality by analogy" in chapter 11) (citations omitted).

A. A Sound Business Purpose Exists for the Sale.

60. As described above, the Debtors have a sound business justification for selling the Assets, which the Debtors have determined are not needed for their ongoing restructuring and, in many (if not all) cases, pose a burden on the Debtors' estates due to regulatory, maintenance and other holding costs. See paragraphs 4-7 above. In addition, the Assets will be subject to an open and competitive bidding process, enhancing the Debtors' ability to receive the highest or otherwise best value for the Assets. Consequently, any

ultimately Successful Bids, after being subject to a "market check" in the form of public marketing and the Auction, if necessary, will constitute the highest or otherwise best offers for the Assets and will provide a greater recovery for the Debtors' estates than any known or practicably available alternative. See, e.g., In re Trans World Airlines, Inc., No. 01-00056, 2001 WL 1820326, at *4 (Bankr. D. Del. 2001) (while a "section 363(b) sale transaction does not require an auction procedure," "the auction procedure has developed over the years as an effective means for producing an arm's length fair value transaction.").

61. Thus, the Debtors submit that any Successful Bid will constitute the highest or otherwise best offer for the applicable Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. As such, the Debtors' determination to sell the Assets through the Bidding Procedures and subsequently to enter into one or more APAs reflecting the Successful Bids for the applicable Assets will be a valid and sound exercise of the Debtors' business judgment. The Debtors will submit evidence at the Sale Hearing to support these conclusions. Therefore, the Debtors request that the Court make a finding that the proposed sale of the Assets is a proper exercise of the Debtors' business judgment and is authorized under the circumstances.

B. The Sale Transactions Have Been Proposed in Good Faith and Without Collusion.

62. The Debtors have proposed the Bidding Procedures in good faith, and they intend to negotiate with all bidders in good faith and at arm's length with respect to the Sale Transactions. At the Sale Hearing, the Debtors also intend to seek a determination that any Successful Bidder is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code.

63. Section 363(m) of the Bankruptcy Code provides in pertinent part:

[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

64. Section 363(m) of the Bankruptcy Code thus protects a buyer of assets pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order approving the sale is reversed on appeal, provided that the buyer purchased the assets in "good faith." Although the Bankruptcy Code does not define "good faith," courts have held that a purchaser shows its good faith through the integrity of its conduct during the course of the sale proceedings, finding that where there is a lack of such integrity, a good faith finding may not be made. See, e.g., In re Abbotts Dairies of Pa., Inc., 788 F.2d 143, 150 (3d Cir. 1986) ("Typically, the misconduct that would destroy a [buyer's] good faith status at a judicial sale involves fraud, collusion between the [proposed buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders."); In the Matter of Andy Frain Services, Inc., 798 F.2d 1113, 1125 (7th Cir. 1986) (citations omitted) (same); In re Sasson Jeans, Inc., 90 B.R. 608, 610 (S.D.N.Y. 1988) (same).

65. The Debtors will submit evidence as necessary at the Sale Hearing to demonstrate that any Successful Bidder is a "good faith purchaser" entitled to the protections of section 363(m) of the Bankruptcy Code.

C. The Bidding Procedures and Auction Will Deliver a Fair Value Transaction.

66. It is well-settled that, where there is a court-approved bidding process, a full and fair price is presumed to have been obtained for the assets sold because the best way to

determine value is exposure to the market. See Bank of Am. Nat'l Trust & Sav. Ass'n. v. 203 N. LaSalle St. P'ship, 526 U.S. 434, 457 (1999); see also Trans World Airlines, Inc., No. 01-00056, 2001 WL 1820326, *4 (Bankr. D. Del. 2001) (quoted, *supra*).

67. Moreover, as noted above, Rothschild will continue to market the Assets and solicit offers consistent with the Bidding Procedures, including, for example, by contacting previously solicited parties, continuing to provide Potential Bidders with Data Room access and requested information and otherwise assisting the Debtors with all efforts to increase transaction value. In this way, the number of bidders that are eligible to participate in a competitive bidding process will be maximized. Even if no Auction is held for certain Assets because multiple Qualified Bids are not received, the resulting purchase price will, conclusively, be fair value because of the public and open marketing process.

D. Adequate and Reasonable Notice of the Sale Transactions Will Be Provided.

68. As described above, the Auction and Hearing Notice: (a) will be served in a manner that provides at least 21 days' notice of the date, time and location of any Sale Hearing; (b) informs parties in interest of the deadlines for objecting to any Sale Transaction; and (c) otherwise includes all information relevant to parties interested in or affected by any Sale Transaction. Significantly, the form and manner of the Auction and Hearing Notice will have been approved by this Court pursuant to the Bidding Procedures Order after notice and a hearing before it is served on other parties in interest.

VI. Approval to Sell the Assets Free and Clear of Liens, Claims and Encumbrances

69. The Debtors request approval to sell the Assets free and clear of any and all liens, claims, interests and encumbrances in accordance with section 363(f) of the Bankruptcy Code. Pursuant to section 363(f), a debtor in possession may sell estate property "free and clear

of any interest in such property of an entity other than the estate" if any one of the following conditions is satisfied:

- a. applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- b. such entity consents;
- c. such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- d. such interest is in bona fide dispute; or
- e. such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

70. It is well established that a bankruptcy court has the power, pursuant to section 363(f) of the Bankruptcy Code, to approve the sale of a debtor's assets free and clear of any claims against the debtor. United Mine Workers of Am. Benefit Plan v. Leckie Smokeless Coal Co. (In re Leckie Smokeless Coal Co.), 99 F.3d 573, 585 (4th Cir. 1996) (holding that successor liability claims are "interests in property" within the meaning of §363(f)).

71. The Debtors submit that the sale of the Assets free and clear of liens, claims and encumbrances will satisfy the requirements of section 363(f) of the Bankruptcy Code. The Debtors also believe that the service of the Auction and Hearing Notice in accordance with the terms set forth in this Motion will afford creditors sufficient notice of the Sale Transactions and therefore supports approval of the sale free and clear of all liens, claims and encumbrances.

VII. Approval of the Assumption and Assignment of Executory Contracts and Unexpired Leases

72. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession "subject to the court's approval, may assume or reject any executory contract or [unexpired] lease of the debtor." 11 U.S.C. § 365(a). The standard governing

bankruptcy court approval of a debtor's decision to assume or reject an Executory Contract is whether the debtor's reasonable business judgment supports assumption or rejection. See, e.g., Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc. (In re Lubrizol Enters., Inc.), 756 F.2d 1043, 1046-47 (4th Cir. 1985) (finding that when reviewing a debtor's decision to assume or reject a contract, courts "must start with the proposition that the bankrupt's decision . . . is to be accorded the deference mandated by the sound business judgment rule as generally applied by courts to discretionary actions or decisions of corporate directors."). Accordingly, courts approve the assumption or rejection of an Executory Contract unless evidence is presented that the debtor's decision to assume or reject was "so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice." Id. at 1047.

73. The assumption and assignment of certain Executory Contracts may be an important component of the sale of certain of the Assets. For example, much of the value of certain Assets comes from the Debtors' coal leases that provide the right to mine coal on the underlying property. It is thus an appropriate exercise of business judgment for the Debtors to agree to assume and assign the Assumed and Assigned Agreements. Additionally, the Debtors submit that the notice provisions and objection deadline for counterparties to raise objections to the assumption and assignment of Executory Contracts, as proposed in this Motion, are adequate to protect the rights of counterparties to the Debtors' Executory Contracts. Further, the Debtors will demonstrate adequate assurance of future performance at the Sale Hearing based on the procedures described above.

74. Upon finding that a debtor has exercised its business judgment in determining that assuming an Executory Contract is in the best interest of its estate, courts must then evaluate whether the assumption meets the requirements of section 365(b) of the

Bankruptcy Code, specifically that a debtor or assignee: (a) cure, or provide adequate assurance of promptly curing, prepetition defaults under the Executory Contract; (b) compensate parties for pecuniary losses arising therefrom; and (c) provide adequate assurance of future performance thereunder. This subsection "attempts to strike a balance between two sometimes competing interests, the right of the contracting non-debtor to get the performance it bargained for and the right of the debtor's creditors to get the benefit of the debtor's bargain." In re Luce Indus., Inc., 8 B.R. 100, 107 (Bankr. S.D.N.Y. 1980).

75. The Debtors submit that the statutory requirements of sections 365(b)(1) and 365(f)(2)(A) of the Bankruptcy Code will be satisfied because the proposed APA will require Successful Bidders to cure all defaults associated with, or that are required to properly assume, the Assumed and Assigned Agreements. In addition, the Bidding Procedures Order provides a clear process by which to provide notice of and resolve disputes over Cure Costs. Under these procedures any outstanding Cure Costs will be identified and any disputes with non-debtor contract counterparties can be identified and resolved or adjudicated. As such, curing defaults under any Assumed and Assigned Agreements will be achieved fairly and efficiently, consistent with the Bankruptcy Code and the rights of non-debtor contract counterparties. Finally, the procedures described herein provide nondebtor counterparties to Executory Contracts with notice of the Successful Bidders and an opportunity to raise issues relating to such party's ability to provide adequate assurance of future performance consistent with section 365(f)(2)(B) of the Bankruptcy Code.

Waiver of Rules 6004(h) and 6006(d)

76. The Debtors request that, upon entry of a Sale Order, the Court waive the 14-day stay requirements of Bankruptcy Rules 6004(h) and 6006(d). The waiver of

the 14-day stay imposed by Bankruptcy Rules 6004(h) and 6006(d) will allow any Sale Transaction to close as soon as possible and prevent further delay in the administration of these cases. In addition, because many of the Assets impose holding costs on the Debtors during their period of ownership and control, any delay in closing may diminish the Debtors' estates to the detriment of creditors. Thus, the Debtors respectfully submit that a waiver of the 14-day stay requirements contained in Bankruptcy Rules 6004(h) and 6006(d) is appropriate under the circumstances.⁹

Notice

77. In accordance with the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (Docket No. 111) approving certain case management and administrative procedures attached thereto as Schedule 1 (collectively, the Case Management Procedures"), notice of the request in this Motion for entry of the Bidding Procedures Order has been given to (a) all parties on the Master Service List (as defined in the Case Management Procedures) and (b) any party that has requested notice pursuant to Bankruptcy Rule 2002. Notice of the remaining relief, including the entry of one or more Sale Orders, will be given as described herein. In light of the nature of the relief requested, the Debtors submit that no other or further notice is necessary.

No Prior Request

78. No prior request for the relief sought herein has been made to this Court or any other Court in connection with these chapter 11 cases.

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Bidding Procedures Order, in substantially the form attached hereto as Exhibit A, (ii) after a

⁹ In addition, to the extent applicable to the Bidding Procedures Order, the 14-day stay should be waived to permit the sale process to proceed without delay.

Sale Hearing, enter one or more Sale Orders approving the sale of Assets Successful Bidder(s) and (iii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: October 22, 2015
Richmond, Virginia

Respectfully submitted,

/s/ Henry P. (Toby) Long, III
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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

BIDDING PROCEDURES ORDER

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Attorneys for Debtors and Debtors in Possession

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

In re:

Alpha Natural Resources, Inc., et al.,

Debtors.

Chapter 11

Case No. 15-33896 (KRH)

(Jointly Administered)

**ORDER (I) APPROVING BIDDING AND SALE PROCEDURES
FOR CERTAIN MINING PROPERTIES AND RELATED ASSETS,
(II) APPROVING THE FORM AND MANNER OF NOTICE OF THE RELATED
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES AND (III) SCHEDULING AN AUCTION AND SALE HEARING**

This matter coming before the Court on the *Debtors' Combined Motion for Entry of (A) an Order Establishing Bidding and Sale Procedures for the Potential Sale of Certain Mining Properties and Related Assets and Granting Related Relief and (B) One or More Orders Approving the Sale of Such Properties* (Docket No. __) (the "Motion"),¹ filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"), seeking, pursuant to sections 105, 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules

¹ Capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Motion, or the Bidding Procedures, as applicable.

2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 6004-2 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the "Local Rules"), an order (i) authorizing and approving the procedures that are attached hereto as Annex 1 and incorporated herein by reference (the "Bidding Procedures") for the marketing and sale of certain of the Debtors' Assets (each, a "Sale Transaction"), (ii) scheduling an Auction and a Sale Hearing in connection with the Sale Transactions, (iii) approving the form and manner of notice of the Auction and the Sale Hearing and (iv) approving procedures for the assumption and assignment of Executory Contracts, including the determination of Cure Costs, pursuant to section 365 of the Bankruptcy Code (the "Contract Procedures"); the Court having reviewed the Motion and conducted a hearing to consider the relief requested therein regarding the Bidding Procedures and related matters (the "Bidding Procedures Hearing"); and the Court having considered the and the statements of counsel and the evidence presented at the Bidding Procedures Hearing;

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Court has jurisdiction over this matter and over the property of the Debtors and their respective bankruptcy estates pursuant to 28 U.S.C. §§ 157(a) and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O).

The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105, 363 and 365; Bankruptcy Rules 2002, 6004 and 6006; and Local Rule 6004-2. Venue of these cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The Debtors have offered good and sufficient reasons for, and the best interests of their estates will be served by, this Court granting the Motion to the extent provided

in this Order, including approval of (1) the Bidding Procedures, (2) the Contract Procedures and (3) the form and manner of notice of the Auction and the Sale Hearing.

C. The proposed notice of the Auction, the Sale Hearing, the Bidding Procedures and the proposed treatment of Assumed and Assigned Agreements, as set forth in the Motion and this Order, is appropriate and sufficient, and is reasonably calculated to provide all interested parties with timely and proper notice thereof, and no other or further notice shall be required in connection with these matters or the proposed Sale Transactions.

D. Good and sufficient notice of the relief sought in the Motion and granted herein has been given under the circumstances, and no further notice of such matters is required. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion and granted herein was afforded to all interested persons and entities.

E. The Bidding Procedures are reasonably designed to maximize the value to be achieved for Assets. As such, the Bidding Procedures are supported by, and constitute a proper exercise of, the Debtors' sound business judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED to the extent provided herein.
2. All objections to the entry of this Order or to the relief provided herein, that have not been withdrawn with prejudice, waived, resolved or settled are hereby denied and overruled on the merits with prejudice.
3. The Bidding Procedures, attached hereto as Annex 1 hereto, are hereby approved in all respects and shall govern all bids and bid proceedings relating to the Assets under the terms thereof. The Debtors and their professionals and agents are authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures.

4. The deadline for submitting a Qualified Bid shall be **January 20, 2016 at 5:00 p.m.**, prevailing Eastern Time (the "**Bid Deadline**"). The Bid Deadline may be modified as set forth in the Bidding Procedures.

5. Any Auction, if necessary, shall take place at offices of the Debtors' counsel, Jones Day, at 222 East 41st Street, New York, New York 10017, at 10:00 a.m. (prevailing Eastern Time) on January 27, 2016, or such other time and place as the Debtors, after consultation with the Consultation Parties, may notify Qualified Bidders who have submitted Qualified Bids. The Auction shall be conducted openly and shall be transcribed as described in greater detail in the Bidding Procedures. As described in the Bidding Procedures, the Debtors may designate a Successful Bidder for certain Assets without conducting an Auction. The Auction may be rescheduled as set forth in the Bidding Procedures.

6. At the request of the Debtors, each bidder participating at the Auction shall be required to confirm in writing, that (a) it has not engaged in any collusion with respect to the bidding process, and (b) its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

7. The Court shall conduct the initial Sale Hearing on February ____, 2016 at _____ (prevailing Eastern Time) or as soon thereafter as counsel and interested parties may be heard, at which time the Court shall consider approval of the Sale Transactions to the Successful Bidder(s) and the entry of the Sale Order(s). The Sale Hearing for some or all of the Assets may be adjourned or rescheduled by the Debtors in their discretion (after consultation with the Consultation Parties) without notice or with limited and shortened notice to parties, including by (a) an announcement of such adjournment at the Sale Hearing or at an Auction or

(b) the filing of a notice of adjournment with the Court prior to the commencement of the Sale Hearing (which may be included in a hearing agenda letter).

8. Within ten business days after entry of this Order,² the Debtors shall serve the proposed Auction and Hearing Notice substantially in the form attached to the Motion as Exhibit B by first-class mail, postage prepaid upon the following parties (collectively, the "Notice Parties"): (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel to the DIP Agents; (d) counsel to the Pre-Petition Agent; (e) counsel to the *ad hoc* group of Second Lien Noteholders; (f) the attorneys general for each of the States in which the Assets are located; (g) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (h) the United States Environmental Protection Agency and applicable environmental regulators in the States in which the Assets are located; (i) all sureties that have issued bonds relating to the Assets; (j) the Pension Benefit Guaranty Corporation; (k) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002(i); (l) all parties that are known or reasonably believed to have expressed an interest in acquiring the Assets; (m) all parties that are known or reasonably believed by the Debtors to have asserted any lien, encumbrance, claim or other interest in the Assets; (n) all other governmental agencies that are known or reasonably believed by the Debtors to be an interested party with respect to any Sale Transaction; (o) all non-Debtor parties to the Assumed and Assigned Agreements; and (p) all other parties identified by the Debtors as having a particular interest in the Assets.

9. Within ten business days of the entry of this Order or as soon as thereafter as practicable, the Debtors shall (a) cause the Auction and Hearing Notice to be published for

² In addition, within ten business days after the Debtors add any Assets to the Asset Schedule, the Debtors will file a copy of the revised Asset Schedule (the "Revised Asset Schedule") and will serve the Revised Asset Schedule on the Notice Parties (along with the Auction and Hearing Notice if not previously served on such party).

one day in the national edition of *The Wall Street Journal* and (b) post the notice on the Restructuring Website. The Debtors are authorized to revise the Auction and Hearing Notice as necessary or appropriate to prepare the notice for publication.

10. Objections to approval of the Sale Transactions, including the sale of the Debtors' assets free and clear of liens, claims, encumbrances and interests pursuant to section 363(f) of the Bankruptcy Code, must be in writing, state the basis of such objection with specificity and be filed with this Court and served so as to be received by following parties on or before January 20, 2016 for all general objections to the potential Sale Transactions and the forms of APA and Sale Order (the "Objection Deadline"):³ (a) the Debtors, Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel); (b) Debtors' counsel, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.) and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.); (c) Debtors' co-counsel, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.); (d) co-counsel to the Official Committee of Unsecured Creditors, (i) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, New York 10005 (Attn: Evan R. Fleck, Esq. and Eric K. Stodola, Esq.) and (ii) Sands Anderson PC, 1111 East Main Street (23219), P.O. Box 1998, Richmond, Virginia 23218 (Attn: William A Gray, Esq.); (e) co-counsel to Citibank, N.A. and Citibank North America, Inc., as administrative and collateral agents under the Debtors' postpetition credit facilities and prepetition first lien credit facility, (i) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Damon P. Meyer, Esq.) and (ii) McGuireWoods

³ The Objection Deadline solely with respect to Assets added to the Revised Asset Schedule will be the later of January 20, 2016 and seven business days after filing and service of the Revised Asset Schedule.

LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219 (Attn: Dion W. Hayes, Esq., Sarah B. Boehm, Esq. and K. Elizabeth Sieg, Esq.); (f) co-counsel to the *ad hoc* group of second lien noteholders, (i) Kirland & Ellis LLP, 601 Lexington Ave., New York, New York, 10022 (Attn: Paul M. Basta, Esq., Stephen E. Hessler, Esq., and Brian E. Schartz Esq.) and (ii) Kutak Rock LLP, 1111 East Main Street, Suite 800, Richmond, Virginia 23219 (Attn: Michael A. Condyles); and (g) any other parties entitled to notice under the case management procedures approved by the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (Docket No. 111).

11. Following the designation of a Successful Bid, the Debtors shall file a notice of the Successful Bid, along with copies of the proposed APA and Sale Order, marked to show changes from the form documents previously filed with the Court (a "Notice of Successful Bid"). A Notice of Successful Bid shall be filed not less than five business days before the Sale Hearing and shall be served on (a) the U.S. Trustee; (b) each of the Consultation Parties; (c) the Potential Bidders; (d) any party that previously had filed an objection to the proposed sale; (e) the attorneys general for each of the States in which the applicable Assets are located; (f) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (g) the United States Environmental Protection Agency and applicable environmental regulators in the States in which the relevant Assets are located; (h) all sureties that have issued bonds relating to the applicable Assets; (i) the Pension Benefit Guaranty Corporation; (j) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002(i); (k) all parties that are known or reasonably believed by the Debtors to have asserted any lien, encumbrance, claim or other interest in the applicable Assets; (l) all other governmental agencies that are known or reasonably believed by the Debtors to be an interested

party with respect to the particular Sale Transaction; and (m) all non-Debtor parties to the applicable Assumed and Assigned Agreements.

12. The deadline for objecting to approval of the proposed Sale Transaction(s) solely for any additional issues raised by the Notice of Successful Bid (i.e., by the revised APA and proposed Sale Order) shall be the earlier of (a) five business days after the filing and service of Notice of Successful Bid and (b) two business days before a Sale Hearing (the "Supplemental Objection Deadline").

13. A party that fails to timely file an objection to any potential or proposed sale by the Objection Deadline or the Supplemental Objection Deadline, as applicable, shall be (a) forever barred from asserting any objection to entry of the Sale Order or consummation of the applicable Sale Transactions, and (b) deemed to have consented to entry of the Sale Order and consummation of the Sale Transactions, without limitation, for purposes of section 363(f) of the Bankruptcy Code.

14. As soon as practicable, but no later than ten business days following entry of this Order, the Debtors shall file a schedule of cure obligations (the "Cure Schedule") for Executory Contracts that they have identified as potential Assumed and Assigned Agreements. The Cure Schedule shall include: (a) a summary description of each Executory Contract that may be assumed and assigned to a potential buyer; and (b) the amount, if any, the Debtors believe would be necessary to cure defaults under such agreements pursuant to sections 365(b)(1) and 365(f)(2)(A) of the Bankruptcy Code (the "Cure Costs"). Listing an Executory Contract on the Cure Schedule does not mean that the Successful Bidder ultimately will identify such agreement as an Assumed and Assigned Agreement in an APA. In addition, inclusion of any document in the Cure Schedule does not constitute, and is not deemed to be, a

determination or admission by the Debtors or any Successful Bidder that such document is an executory contract or unexpired lease within the meaning of the Bankruptcy Code. The Cure Schedule may be amended or supplemented by the Debtors from time to time.

15. The Debtors shall serve a copy of the relevant portion of the Cure Schedule, together with the Assumption and Assignment Notice in substantially the form attached to the Motion as Exhibit C, on each of the nondebtor counterparties to the agreements listed on the Cure Schedule by first class mail on the date that the Cure Schedule is filed with the Court. If the Debtors amend the Cure Schedule (e.g., to add additional Executory Contracts when the Asset Schedule is updated), the Debtors shall serve copy of the relevant portion of the amended Cure Schedule, together with the Assumption and Assignment Notice, on each of the nondebtor counterparties to the agreements listed on the amended Cure Schedule by first class mail.

16. Objections to the Cure Costs set forth in the Cure Schedule must be in writing, state the basis of such objection with specificity and be filed with the Court, and be actually received by the Debtors' counsel on or before the later of (a) January 11, 2016 and (b) ten business days after service of the Assumption and Assignment Notice.

17. Unless a nondebtor party to an Assumed and Assigned Agreement has timely and properly filed and served an objection to the assumption and assignment of its Assumed and Assigned Agreement or the Cure Costs, the Cure Costs set forth in the Cure Schedule shall be binding upon the nondebtor parties to the Assumed and Assigned Agreements for all purposes in these chapter 11 cases and shall constitute a final determination of the total Cure Costs required to be paid by the Debtors in connection with the assumption and assignment of the Assumed and Assigned Agreements (unless a portion of such costs are paid or satisfied in

any manner, in which case the Cure Costs shall be reduced). In addition, absent a timely and properly filed and served objection, all nondebtor counterparties to Assumed and Assigned Agreements shall (a) be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts with respect to the Assumed and Assigned Agreements, and the Debtors and the Successful Bidder shall be entitled to rely solely upon the Cure Costs set forth in the Cure Schedule; and (b) be forever barred, estopped and permanently enjoined from asserting or claiming against the Debtors, any Successful Bidder or their respective property that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied under such Assumed and Assigned Agreement or that there is any objection or defense to the assumption and assignment of such Assumed and Assigned Agreement.

18. If a nondebtor counterparty to an Assumed and Assigned Agreement files an objection asserting a cure amount higher than the proposed Cure Amounts (the "Disputed Cure Amounts"), then (a) to the extent that the parties (including, if applicable, a Successful Bidder) are able to consensually resolve the Disputed Cure Amounts prior to the Sale Hearing, the Debtors shall promptly provide the Consultation Parties with notice and an opportunity to object to such proposed resolution; or (b) to the extent the parties are unable to consensually resolve the dispute prior to the Sale Hearing or any of the Consultation Parties raise an objection, the amount to be paid under section 365 of the Bankruptcy Code with respect to such Disputed Cure Amount shall be determined at the Sale Hearing or at such other date and time as may be fixed by this Court. All other objections to the proposed assumption and assignment of an Assumed and Assigned Agreement shall be heard at the Sale Hearing.

19. The deadline for parties to object solely to the assignment of the Assumed and Assigned Agreements to a particular Successful Bidder as identified in a Notice of

Successful Bid (including on the basis of adequate assurance of future performance as required by section 365(f)(2)(B) of the Bankruptcy Code) shall be the earlier of (a) five business days after the filing and service of the Notice of Successful Bid and (b) two business days before the commencement of the Sale Hearing.

20. The form of the Auction and Hearing Notice and the Assumption and Assignment Notice attached to the Motion as Exhibits B and C, respectively, and the manner of service described herein (a) are hereby approved in all respects and (b) are determined to be appropriate and sufficient for all purposes. The Debtors shall be permitted to make nonsubstantive revisions to the Auction and Hearing Notice and the Assumption and Assignment Notice, consistent with the Bidding Procedures and this Order.

21. No other or further notice of the Motion, this Order, the Bidding Procedures, the sale of the Assets, the Auction, the Successful Bidders, the assumption and assignment of Executory Contracts or the Sale Hearing shall be required.

22. All parties (whether or not Qualified Bidders) that participate in the Bidding Process (including any Auction) shall be deemed to have knowingly and voluntarily (a) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes relating to the Bidding Process, the Auction and/or the Sale Transactions) to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution and (b) waived any right to jury trial in connection with any disputes relating to the any of the foregoing matters.

23. Nothing in this Order, the Bidding Procedures or the participation of the DIP Agents, the DIP Lenders or any Pre-Petition Secured Parties (each as defined in

the Final DIP Order and collectively, the "Lender Parties") in the bidding process, shall be deemed a waiver of their respective rights and remedies under the Final DIP Order or the DIP Credit Agreements (as defined in the Final DIP Order) or any documents or orders relating thereto (together, the "DIP Documents") or the rights and remedies of any of the Lender Parties under the DIP Documents or the Final DIP Order, as applicable.

24. This Order shall be immediately effective and enforceable upon its entry, and nothing in Bankruptcy Rule 6004(h), 6006(d), 7062 or 9014 (to the extent applicable) shall cause a stay hereof.

25. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation, interpretation or enforcement of this Order.

Dated: _____, 2015
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

Respectfully submitted,

/s/ Henry P. (Toby) Long, III
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J.R. Smith (VSB No. 41913)
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*Attorneys for 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/ Henry P. (Toby) Long, III

ANNEX 1

BIDDING PROCEDURES

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Attorneys for Debtors and Debtors in Possession

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

<p>In re:</p> <p>Alpha Natural Resources, Inc., <u>et al.</u>,</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 11</p> <p>Case No. 15-33896 (KRH)</p> <p>(Jointly Administered)</p>
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**BIDDING PROCEDURES FOR THE SALE
OF CERTAIN OF THE DEBTORS' MINING ASSETS**¹

By motion dated October 22, 2015 (Docket No. __) (the "Motion"), Alpha Natural Resources, Inc. and its affiliated debtors in the above-captioned cases, each as a debtor-in-possession (collectively, the "Debtors"), sought, among other things, approval of the process and procedures for soliciting bids for and obtaining approval of the sale of certain of the Debtors' mining properties, assets and related infrastructure as described in more detail on the attached Annex A (together, as amended, modified or supplemented from time to time, the "Assets"). For the avoidance of doubt, the Assets include the executory contracts and unexpired leases related thereto. The schedule of Assets attached as Annex A (the "Asset Schedule") may be modified from time to time to remove or add assets, as described below.

On November __, 2015, the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court") entered an order (Docket No. __) (the "Bidding Procedures Order") that, among other things, authorizes the Debtors to solicit bids in respect of the Assets through the procedures described below (the "Bidding Procedures") and to seek approval of one or more Successful Bids (as defined below) by the Bankruptcy Court at one or more hearings,

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Bidding Procedures Order (as defined below).

with such hearing initially scheduled for _____ .m. (prevailing Eastern Time) on February ___, 2016 before the Honorable Kevin R. Huennekens (each, a "Sale Hearing").

1. **Important Dates and Contact Information**

As further described below in connection with the Bidding Procedures, the Debtors will take the following steps, as applicable:

- (a) assist Potential Bidders (as defined below) in conducting their respective due diligence investigations and accept nonbinding Preliminary Indications of Interest (as defined below) on or before **December 11, 2015 at 5:00 p.m.** (prevailing Eastern Time) (the "PII Deadline");
- (b) accept Qualified Bids (as defined below) until the deadline for receipt of Qualified Bids, which is **January 20, 2016 at 5:00 p.m.** (prevailing Eastern Time) (the "Bid Deadline");
- (c) after consultation with the counsel or financial advisors to the statutory committee of unsecured creditors appointed in the Debtors' chapter 11 cases (the "Committee"), (ii) counsel or financial advisors to the DIP Agents (as defined in the Final DIP Order);² (iii) counsel or financial advisors to the Pre-Petition Agent (as defined in the Final DIP Order); and (iv) counsel or financial advisors to the *ad hoc* group of Second Lien Noteholders (as defined in the Final DIP Order) (collectively, such advisors, the "Consultation Parties"), evaluate bids and negotiate with bidders to obtain the highest or best bid for the Assets;
- (d) if more than one Qualified Bid is received for a particular Asset or group of Assets, or if the Debtors otherwise determine, after consultation with the Consultation Parties, that it would promote the sale process, conduct an auction (the "Auction") to begin at 10:00 a.m. (prevailing Eastern Time) on January 27, 2016 (the "Auction Date"); and
- (e) after consultation with the Consultation Parties, select the Successful Bidders (as defined below) for each of the applicable Assets (at the conclusion of the Auction, if any, or earlier if no Auction is needed) and seek approval of the Successful Bids for such Assets at a Sale Hearing.

² The term "Final DIP Order" means, collectively: (a) the *Final Order (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to Authorizing (A) Authorizing The Debtors 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) and 364(e), and (B) To Utilize Cash Collateral Pursuant to 11 U.S.C. § 363 and (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507(b)*, entered on September 17, 2015 (Docket No. 465); and (b) any supplemental final order subsequently entered by the Bankruptcy Court authorizing the Debtors to continue to use cash collateral and obtain postpetition financing under any section of the Bankruptcy Code.

Information, bids and other correspondence that must be provided to the Debtors under these Bidding Procedures must be delivered to the following parties (collectively, the "Notice Parties"): (i) the Debtors, Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel), email: rverheij@alphanr.com; (ii) counsel to the Debtors, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.), email: ceblack@jonesday.com; and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.), email: jbellman@jonesday.com; (iii) co-counsel to the Debtors, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.), email: tpbrown@hunton.com; and (iv) the Debtors' investment banker, Rothschild, Inc. ("Rothschild"), 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Homer Parkhill), email: homer.parkhill@rothschild.com.

2. Marketing Process

The Debtors, in consultation with Rothschild and the Consultation Parties, have developed a list of parties that the Debtors believe may be interested in, and that the Debtors reasonably believe would have the financial resources to consummate, a sale transaction for some or all of the Assets (each, individually, a "Contact Party" and, collectively, the "Contact Parties"). The Debtors and Rothschild have contacted or will contact the Contact Parties to explore their interest in pursuing a purchase of all or some of the Assets. The Contact Parties may include parties that the Debtors or their advisors have previously contacted regarding a transaction, regardless of whether such parties expressed any interest at such time in pursuing a transaction. The Debtors will continue to discuss the marketing process with the Consultation Parties and may supplement the list of Contact Parties throughout the marketing process, as appropriate.

The Debtors may distribute to each Contact Party and any other interested party or potential bidder an "Information Package" consisting of: (a) a cover letter; (b) a copy of these Bidding Procedures and the Bid Procedures Order; (c) a copy of a Confidentiality Agreement (as defined below); (d) copies of a form Asset Purchase Agreement (an "APA") and form of sale order (a "Sale Order");³ and (d) such other materials as the Debtors and Rothschild deem appropriate under the circumstances, including, but not limited to, preliminary "teaser" information appropriate to enable each Contact Party or other potential bidder to identify and make an initial evaluation of the Assets.

3. Participation Requirements

Potential Bidders

To participate in the bidding process, each interested person or entity must execute a confidentiality agreement in form and substance satisfactory to the Debtors, after consultation with the Consultation Parties (each a "Confidentiality Agreement"), at which point such party will be deemed a "Potential Bidder" and the Debtors will deliver to such Potential Bidder access

³ The Debtors may propose alternate forms of APA for different types of Assets.

to the Debtors' confidential electronic data room concerning the Assets (the "Data Room"). At the Debtors' discretion, a Potential Bidder's access to the Data Room and other due diligence materials will terminate if they fail to deliver a Preliminary Indication of Interest on or before the PII Deadline. The Debtors also will provide access to the Data Room to the Consultation Parties subject to confidentiality arrangements with those parties.

Preliminary Indications of Interest

To continue to participate in the bidding process, a Potential Bidder must provide a nonbinding written proposal (a "Preliminary Indication of Interest") that includes the following:

- (a) a preliminary indication of the Assets on which the Potential Bidder intends to bid, identifying in particular each Asset that the Potential Bidder may seek to purchase;
- (b) the proposed purchase price or price range for such Assets, including the potential forms of consideration and any debt or equity financing that the Potential Bidder expects to use to consummate the sale, in each case allocated to each applicable Asset as identified on the Asset Schedule;
- (c) any anticipated regulatory approvals required to close the proposed sale transaction (the "Sale Transaction") and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (d) the nature and extent of additional due diligence the Potential Bidder wishes to conduct; and
- (e) any additional information reasonably requested by the Debtors regarding such Potential Bidder, its proposal and its operational and financial ability to consummate such proposal.

Each Preliminary Indication of Interest shall be submitted via email and actually received by the Notice Parties on or before the PII Deadline. The Debtors will provide copies of Preliminary Indications of Interest they receive to the Consultation Parties within one business day after receipt.

4. **Due Diligence**

Until the Bid Deadline, in addition to access to the Data Room, the Debtors will provide any Potential Bidder such due diligence access or additional information as the Debtors determine to be reasonable in the circumstances, subject to the restrictions set forth in such Potential Bidder's Confidentiality Agreement and this paragraph. All additional due diligence requests must be directed to Matthew Chou or Gideon Volschenk of Rothschild at matthew.chou@rothschild.com or gideon.volschenk@rothschild.com. The Debtors, with the assistance of Rothschild, will coordinate all reasonable requests for additional information and due diligence access from Potential Bidders, which may include site visits or management presentations. If any such due diligence material is in written form and has not previously been provided to any other Potential Bidder, subject to any confidentiality issues related to the

material, the Debtors will simultaneously provide access to such materials to all Potential Bidders and the Consultation Parties. It is expected that Potential Bidders will complete due diligence in connection with the Assets prior to the Bid Deadline and, in any event, no Qualified Bid (as defined below) may be subject to any closing condition relating to completion of or review of additional due diligence or financing contingencies.

Unless otherwise determined by the Debtors, the availability of additional due diligence to a Potential Bidder will cease if: (a) the Potential Bidder does not become a Qualified Bidder during the period commencing on the Bid Deadline and concluding on the Auction Date; or (b) after consultation with the Consultation Parties, the bidding process is terminated with respect to the applicable Asset(s), including upon the Debtors designating a Successful Bidder (as defined below) for the Asset. Except as provided herein with respect to access to the Data Room, neither the Debtors nor their representatives will be obligated to furnish any information of any kind whatsoever relating to the Assets to any party.

5. **Qualified Bids**

Minimum Bid Requirements

A "Qualified Bid" in respect of any of the Assets is a written proposal from a Potential Bidder that, at a minimum includes the following (the "Minimum Bid Requirements"):

- (a) identifies the legal name of the Potential Bidder (including any direct or indirect equity holders or other financial backers, if the Potential Bidder is an entity formed for the purpose of consummating the proposed Sale Transaction);
- (b) provides that the Potential Bidder offers to purchase the Assets or a portion thereof at the purchase price and upon the terms and conditions set forth in a copy of the APA and the Sale Order enclosed therewith, marked to show any proposed amendments and modifications (collectively, the "Marked Agreements");
- (c) if a Potential Bidder seeks to buy all or a portion of more than one Asset as listed on the Asset Schedule, identifies the allocation of the proposed Purchase Price to each Asset (or portion thereof) and states the willingness of the Potential Bidder to purchase each Asset or portion thereof separately from any other Assets that are part of its bid;
- (d) states that all necessary filings under applicable regulatory, antitrust and other laws or regulations will be made, pursuant to the terms and conditions in the Marked Agreements or other bid documents (collectively, the "Bid Documents"), and that payment of the fees associated with such filings will be made by the Potential Bidder;
- (e) identifies all executory contracts and unexpired leases to be assumed and assigned in connection with the proposed Sale Transaction and states that all cure costs related thereto will be paid by the Potential Bidder;

- (f) is formal, binding and unconditional (except for those conditions expressly set forth in the Marked Agreements, is not subject to any due diligence and is irrevocable until the earlier of April 30, 2016 and the first business day following the closing of the Sale Transaction;
- (g) for the purchase of any coal mining properties, the bid contemplates taking transfer of, or obtaining overlapping permits with respect to, the Debtors' applicable mining permits, and provides evidence demonstrating that the Potential Bidder (i) is capable of taking transfer of such permits or obtaining such overlapping permits (including verification that the Potential Bidder is not "permit blocked" under the federal Surface Mining Control and Reclamation Act by application of the federal Applicant Violator System or will not be "permit blocked" as of the time of transfer or issuance) and (ii) has or will have sufficient financial resources necessary to obtain or replace any financial assurance/reclamation surety bonds that are associated with such permits;
- (h) includes a commitment to close the Sale Transaction contemplated by the bid as promptly as possible;
- (i) does not entitle such Potential Bidder to a breakup fee, termination fee, expense reimbursement or similar type of payment or reimbursement and includes an express waiver of any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code related to bidding for any of the Assets;
- (j) is accompanied by the Good Faith Deposit (as defined below) in immediately available funds;
- (k) includes an acknowledgment that the Sale Transaction will be on an "as is, where is" basis and without representations or warranties of any kind by the Debtors, their agents or the Debtors' chapter 11 estates, except and solely to the extent expressly set forth in the final APA and Sale Order presented for approval by the Bankruptcy Court;
- (l) includes an acknowledgment that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the Assets that are the subject of the Auction prior to making its bid, that it has relied solely upon its own independent review and investigation in making its bid, and that it did not rely on the completeness of any information provided in connection with the Auction or its bid;
- (m) includes an acknowledgment that the Potential Bidder has not engaged in any collusion with respect to the Bidding Process and its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder; and
- (n) is received by the Bid Deadline.

Additional Supporting Information

At the Debtors' request, after consultation with the Consultation Parties, prior to, on or after the Bid Deadline, a Potential Bidder must accompany or support its bid with, as applicable: (a) written evidence of available cash, a commitment for financing (not subject to any conditions other than those expressly set forth in the applicable Bid Documents) or such other evidence of ability to consummate the transaction contemplated by the Bid Documents (and, as applicable, to provide adequate assurance of future performance of all executory contracts, unexpired leases and other obligations to be assumed in such Sale Transaction) as the Debtors may reasonably request; (b) a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed; (c) a covenant to cooperate with the Debtors to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements or regulations; (d) if the purchase price includes non-cash consideration (other than the assumption of liabilities), an analysis in reasonable detail of the value of the non-cash consideration (it being understood that a credit bid under section 363(k) of the Bankruptcy Code will be treated as cash); and (e) other documentation as requested by the Debtors (the foregoing, together with the Minimum Bid Requirements, the "Bid Materials").

By submitting a bid, a Potential Bidder authorizes the Debtors to provide the Marked Agreements and other Bid Materials to the Consultation Parties on a confidential basis.

Considerations in Comparing and Valuing Bids

In addition, in determining whether the terms of the bid or bids for any portion of the Assets are materially more burdensome or conditional than the terms of another bid, and in valuing any bids, the Debtors may take into consideration:

- (a) the purchase price and whether the bid or bids includes a non-cash instrument or similar consideration that is not freely marketable;
- (b) the overall value to be provided to the Debtors under the bid, including the net economic effect upon the Debtors' estates;
- (c) indemnification and other provisions;
- (d) the ability to obtain any and all necessary antitrust or other applicable regulatory approvals for the proposed Sale Transaction;
- (e) other contingencies and the ability to close the proposed Sale Transaction on a basis acceptable to the Debtors, and any incremental costs to the Debtors as a result of potential closing delays; and
- (f) any other factors that the Debtors, after consultation with the Consultation Parties, may deem relevant.

Bid Deposit

A Potential Bidder must deposit with the Debtors a cash deposit equal to either (a) 10% of the cash consideration payable at closing pursuant to the applicable Bid Documents, with a minimum deposit of \$100,000 or (b) such other amount as may be agreed upon by the Debtors after consultation with the Consultation Parties (any such deposit, a "Good Faith Deposit"). The Good Faith Deposit must be made by wire transfer and will be held by the Debtors in a segregated bank account established and maintained in accordance with the Final DIP Order.

Determination of Qualified Bids

If a bid is received and, in the Debtors' judgment, it is not clear to the Debtors whether the bid is a Qualified Bid, the Debtors may consult with the Potential Bidder and seek additional information in an effort to establish whether or not a bid is a Qualified Bid, or to address any deficiencies in the bid. No later than one business day after the Bid Deadline, the Debtors shall provide copies of all bids received by the Debtors to each of the Consultation Parties.

The Debtors, in their discretion and after consultation with the Consultation Parties, will determine whether a bid received from a Potential Bidder for any of the Assets will constitute a "Qualified Bid" and whether a Potential Bidder that submits such a bid will be considered a "Qualified Bidder." Further, after consultation with the Consultation Parties, the Debtors may, in their judgment, withdraw some or all of the Assets from the sale process at any time before entry of an order approving a sale of the Assets to a Qualified Bidder.

Notwithstanding anything in these Bidding Procedures, the Bidding Procedures Order or a Sale Order, a credit bid or cash bid from the DIP Agents, the DIP Lenders (as defined in the Final DIP Order) or the Pre-Petition Secured Parties (as defined in the Final DIP Order) shall be a Qualified Bid to the extent such bid is received by the Bid Deadline and complies with the applicable terms of the Final DIP Order, the other DIP Documents (as defined in the Final DIP Order), the Existing Secured Agreement (as defined in the Final DIP Order) and the ICA (as defined in the Final DIP Order).

Additional Requirements

The Debtors reserve the right, after consultation with the Consultation Parties, to impose additional terms and conditions with respect to Qualified Bidders not otherwise inconsistent with these Bidding Procedures.

6. **Bid Deadline**

A Potential Bidder that desires to make a bid must deliver written and electronic copies of its bid in both Portable Document Format (.pdf) and Microsoft Word (.doc/.docx) format to the Notice Parties so as to be received no later than the Bid Deadline of **January 20, 2016 at 5:00 p.m.** (prevailing Eastern Time).

7. **Determination by the Debtors**

The Bidding Procedures as described herein are calculated to obtain the highest and/or best offer or group of offers for the Assets. The Debtors will (a) determine, with the assistance of their advisors, and after consultation with the Consultation Parties, whether any person or entity is a Qualified Bidder, (b) receive bids from Qualified Bidders, (c) evaluate and negotiate such bids and (d) conduct any Auction (clauses (a) through (d) and Section 1 above, collectively, the "Bidding Process"). Neither the Debtors nor any of their representatives will be obligated to furnish any information of any kind whatsoever relating to the Assets to any person or entity who is not a Consultation Party or a Qualified Bidder and who does not comply with the requirements set forth herein.

8. **Baseline Bid; Treatment of Assets Subject to Only One Qualifying Bid**

Only Qualified Bidders and other Potential Bidders who submit requested Bid Materials and are invited by the Debtors, in their discretion, to participate in an Auction, are eligible to participate in the Auction. The Debtors, after consultation with the Consultation Parties, will select what they determine to be the highest and/or best Qualified Bid or combination of bids that together constitute a Qualified Bid for any portion of the Assets (the "Baseline Bid(s)") to serve as the starting point at the Auction taking into account all relevant considerations, including the financial condition of the applicable bidder and certainty of closing, as described above. Different Assets as identified on the Asset Schedule or other subsets of the Assets or combinations thereof (a) may be subject to separate bidding at the Auction; or (b) in the Debtors' discretion, may be scheduled for Auction on different dates, as described below.

If only one Qualified Bid is received for any particular set of Assets, after consultation with the Consultation Parties, the Debtors in their discretion may either designate such Qualified Bid to be the Successful Bid (as defined below) for such Assets without conducting the Auction with respect to such Assets or submit the Assets at issue to an Auction, with other Potential Bidders invited to participate.

9. **Auction**

If at least two Qualified Bids in respect of any of the Assets (in whole or in part) are received by the Bid Deadline, the Debtors will conduct an Auction for such Assets upon which multiple bids were received; provided, however, that if a Qualified Bid includes Assets not covered by any other Qualified Bids (a "Unique Bid") and other bidders do not express an interest in purchasing the additional Assets included in the Unique Bid, the Debtors may determine, after consultation with the Consultation Parties, to designate the Unique Bid as the Successful Bid for the applicable Assets and not conduct an Auction for such Assets.

Time, Place and Conduct of an Auction

Any Auction will take place at the offices of the Debtors' counsel, Jones Day, at 222 East 41st Street, New York, New York 10017, at 10:00 a.m. (prevailing Eastern Time) on the Auction Date, or such other time and place as the Debtors, after consultation with the Consultation Parties, may notify Qualified Bidders who have submitted Qualified Bids. After consultation with the Consultation Parties, the Debtors may schedule Auctions for certain Assets on alternate

days before or after the original Auction Date. Only a Qualified Bidder or a Potential Bidder invited by the Debtors to participate at the Auction will be eligible to participate at the Auction, subject to such limitations as the Debtors may impose after consultation with the Consultation Parties. A reasonable number (as determined by the Debtors) of representatives of the Qualified Bidders, Potential Bidders invited to participate and each Consultation Party will be permitted to attend and observe the Auction. A transcript of the Auction proceedings will be created.

No Collusion/Good Faith

At the request of the Debtors, each bidder participating in the Auction will be required to confirm, in writing, that it has not engaged in any collusion with respect to the Bidding Process, and that its bid is a good faith *bona fide* offer that it intends to consummate if selected as the Successful Bidder.

Rules of the Auction

After consultation with the Consultation Parties, the Debtors may at any time adopt rules for the Auction that the Debtors reasonably determine to be appropriate to promote the goals of the Bidding Process, including one or more adjournments of the Auction. The rules of the Auction will be announced on the record at the outset of the Auction.

Bidding at an Auction

At the Auction, participants will be permitted to increase their bids and improve their terms; provided that any such increased or improved bid or combination of bids must be a Qualified Bid (except that the Bid Deadline will not apply). Bidding for any part of the Assets will start at the purchase price and terms proposed in the applicable Baseline Bid(s). The Debtors will announce the bidding increments for bids (the "Minimum Overbid") and other auction rules at the outset of the Auction with respect to each of the Assets, as applicable. Without limiting any other right of the Debtors to establish the rules of the Auction, the Debtors reserve all rights to require any Qualified Bidders submit their last and final bids on a "blind" basis.

Right to Reject Bids

The Debtors, after consulting with the Consultation Parties, reserve the right to and may reject at any time before entry of the final Sale Order any bid that, in the Debtors' judgment, is: (a) inadequate or insufficient; (b) not in conformity with the requirements of the Bankruptcy Code, these Bidding Procedures or the terms and conditions of the Sale Transaction; or (c) contrary to the best interests of the Debtors and their estates.

Designation of Successful Bid and Next Best Bid

Prior to the conclusion of the Auction and after consultation with the Consultation Parties, the Debtors will: (a) review and evaluate each bid made at the Auction on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale Transaction; (b) in the exercise of their good faith business judgment and consistent with the Bidding Procedures, identify the highest or otherwise best offer or collection of offers in respect of the Assets (the "Successful Bid(s)"); and (c) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of the successful bidder or bidders (the "Successful Bidder(s)") and the amount and other material terms of the Successful Bid(s). Absent irregularities in the conduct of the Auction or reasonable and material confusion during the bidding, each as determined by the Bankruptcy Court, the Debtors will not consider bids made after the Auction has been closed.

After determining the Successful Bid(s) for the Assets, the Debtors may determine, in their reasonable business judgment, after consultation with the Consultation Parties, which Qualified Bid(s) are the next best bids for the Assets (the "Next Best Bid(s)").

Sale Hearing

At the Sale Hearing, the Debtors will present the Successful Bid(s) to the Bankruptcy Court for approval. Following the entry of the Sale Order(s), the Debtors will proceed to close the Sale Transaction(s) upon the satisfaction or waiver of all applicable conditions precedent to closing.

10. **Acceptance of Successful Bids**

Debtors' Acceptance Conditioned on Sale Order

The Debtors presently intend to consummate the Sale Transaction(s) with the Successful Bidder(s); however, the Debtors' presentation of the Successful Bid(s) to the Bankruptcy Court for approval does not constitute the Debtors' acceptance of such bid(s). The Debtors will be deemed to have accepted a Successful Bid only when an APA therefor has been executed and such bid has been approved by entry of the applicable Sale Order.

Remedies on Successful Bidder's Breach

If a failure to consummate the transaction is the result of a breach by a Successful Bidder of the applicable Successful Bid contract, the Debtors may retain the Good Faith Deposit of such Successful Bidder and reserve the right to seek, in addition to the Good Faith Deposit, specific performance, as well as any and all available additional damages from such Successful Bidder.

Next Highest Bidder

If a Successful Bidder does not close the applicable Sale Transaction contemplated by the applicable Successful Bid by the date agreed to by the Debtors and such Successful Bidder, then the Debtors will be authorized, but not required, to close with the party that submitted the applicable Next Best Bid, pursuant to the applicable Sale Order.

11. **Modification of Bidding Procedures**

After consultation with the Consultation Parties, the Debtors may amend these Bidding Procedures or the Bidding Process at any time and from time to time in any manner that they determine in good faith will best promote the goals of the Bidding Process, including extending or modifying any of the dates described herein or the information and materials required from Qualified Bidders.

12. **Modification of Asset Schedule**

At any time in the marketing and bidding process and after consultation with the Consultation Parties, the Debtors may remove Assets from or add Assets to the Asset Schedule by filing an updated Asset Schedule with the Bankruptcy Court and serving the updated Asset Schedule on the Potential Bidders and, in the Debtors' discretion, any additional Contact Parties.

13. **"As Is, Where Is;" Free and Clear of Liens, Claims, Interests and Encumbrances**

Any Sale Transaction will be on an "as is, where is" basis and without representations or warranties of any kind by the Debtors, their agents or the Debtors' chapter 11 estates, except and solely to the extent expressly set forth in the final APA and Sale Order approved by the Bankruptcy Court. Each Qualified Bidder will be required to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets that are the subject of the Auction prior to making its bid, that it has relied solely upon its own independent review and investigation in making its bid and that it did not rely on the completeness of any information provided in connection with the Auction or its bid. Except as otherwise provided in the final agreement approved by the Bankruptcy Court, all of the Debtors' right, title and interest in and to the Assets will be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), interests and encumbrances (collectively, "Liens"), with any Liens to attach to the proceeds of the Sale Transaction as provided in the final Sale Order.

14. **Notice of Successful Bid, Sale Hearing and Sale Order; Objections; Adjournments**

Following the designation of a Successful Bid, the Debtors will file a notice of the Successful Bid, along with copies of the proposed APA and Sale Order, marked to show changes from the form documents previously filed with the Court (a "Notice of Successful Bid"). A Notice of Successful Bid shall be filed not less than five business days before the Sale Hearing. The Debtors will serve the Notice of Successful Bid as set forth in the Bid Procedures Order.

Any objections to the approval of such Sale Transaction shall be filed (a) no later than January 20, 2016 for all general objections to the potential Sale Transactions and the terms contained in the forms of APA and Sale Order filed with the Bankruptcy Court and (b) by the earlier of (i) five business days after the filing and service of Notice of Successful Bid and (ii) two business days before a Sale Hearing solely for any additional issues raised by the Notice of Successful Bid (i.e., the revised forms of APA and proposed Sale Order). Objections to the proposed assumption and assignment of Executory Contracts and related Cure Amounts will be subject to the separate procedures set forth in the Bid Procedures Order.

At the Sale Hearing, the Debtors will seek the entry of one or multiple Sale Orders substantially the form of the order filed with the Bankruptcy Court (Docket No. ____), *inter alia*, authorizing and approving the sale of all or some of the Assets, to the Successful Bidder(s) pursuant to the terms and conditions set forth in the Successful Bid(s), with such modifications as may be negotiated by the parties.

The Sale Hearing for some or all of the Assets may be adjourned or rescheduled by the Debtors in their discretion (after consultation with the Consultation Parties) without notice or with limited and shortened notice to parties, including by (a) an announcement of such adjournment at the Sale Hearing or at an Auction or (b) the filing of a notice of adjournment with the Bankruptcy Court prior to the commencement of the Sale Hearing (which may be included in a hearing agenda letter).

15. **Return of Good Faith Deposit**

The Good Faith Deposits of all Qualified Bidders will be held in escrow by the Debtors and, while held in escrow, will not become property of the Debtors' bankruptcy estates unless released from escrow pursuant to further order of the Bankruptcy Court or upon a breach of the by a Successful Bidder as described in Section 10 above. The Debtors will retain the Good Faith Deposits of the Successful Bidder(s) until the closing of the Sale Transaction(s) unless otherwise ordered by the Bankruptcy Court. The Good Faith Deposits of the other Qualified Bidders will be returned on the earlier of May 2, 2016 and the third business day following the closing of the Sale Transaction. At the closing of the Sale Transaction contemplated by the Successful Bid, the Successful Bidder will be entitled to a credit for the amount of its Good Faith Deposit (not including interest accrued thereon) against the cash purchase price, or the return of the Good Faith Deposit, as applicable. Upon the return of the Good Faith Deposits, their respective owners will receive any and all interest that has accrued thereon.

16. **Consultation Party Bidder Matters**

If (a) any member of the Committee or an affiliate thereof or (b) any of the Debtors' prepetition or postpetition secured lenders submits a Qualified Bid (each individual party submitting such a Qualified Bid along with its counsel and other advisors, a "Consultation Party Bidder"), advisors to the Creditors' Committee, the DIP Agents, the Pre-Petition Agent or the Second Lien Noteholders, as applicable, must not provide any material, nonpublic information to such Consultation Party Bidder regarding competing bids for any part of the Assets for which the Consultation Party Bidder has submitted a Qualified Bid. In addition, the Debtor will not consult with such Consultation Party Bidder under the Bidding Procedures or otherwise if the Consultation Party Bidder is an active bidder with respect to the Assets for which the Consultation Party Bidder has submitted a Qualified Bid, but the Debtors may consult with the Consultation Party Bidder (including as required herein) with respect to bids on any Assets for which the Consultation Party Bidder has not submitted a bid and for Assets for which a prior Consultation Party Bidder is no longer actively pursuing a bid.

17. **Stalking Horse Bids**

The Debtors reserve the right, in an exercise of their business judgment and after consultation with the Consultation Parties, to identify a bid with respect to certain Assets submitted by a Potential Bidder as a "stalking horse bid" and to seek Bankruptcy Court approval of bid protections with respect to such bid.

Annex A - Schedule of Mining Properties and Assets

The following coal mining properties, assets and related infrastructure are being marketed for sale pursuant to the attached Bidding Procedures. The properties listed below, by mine location, include all of the Debtors' rights, title and interests in and to assets at or related to the identified mining locations, including, without limitation, any real property, fixtures, personal property, executory contracts, unexpired leases and permits. This asset schedule may be amended from time to time to add additional mining properties and assets, or to remove certain properties and assets listed below.

Asset	State	Counties	Preparation Plant/ Load-out	Mines	Status
Black Bear/Ben's Creek	WV	Mingo	Y	Mountaineer Mine	Closed
Coalgood	KY	Harlan	Y	Coalgood Surface Mine	Closed
Cucumber	WV	McDowell	Y-Load-out	Cucumber Mine	Closed
Goals/Edwight	WV	Raleigh	Y	Edwight Mine	Closure in process
Green Valley	WV	Nicholas	Y	Grassy Creek Mine Hominy Creek Mine	Closed Closed
Knox Creek	VA	Tazewell	Y	Tiller #1 Mine	Closure in process
Martin County Coal	KY	Martin	Y	Voyager 7 Mine White Cabin 7 Mine White Cabin 9 Mine	Closed Closed Closed
Rawl	WV	Mingo	Y	N/A	Reserve
Revolution Mine/Independence	WV	Boone	Y	Revolution Mine	Closed
Rock Springs	WV	Wayne, Lincoln	Y	Rock Springs Mine	Closed
Superior Mine	WV	Logan	N	Superior Surface Mine	Closed
Tennessee Consolidated Coal	TN	Primarily Marion	Y	Mine 43	Closed
Twilight Surface Mine	WV	Boone, Raleigh	N	Twilight Surface Mine	Closure in process
Twin Star	VA,WV	Buchanan, VA & Mingo, WV	Y-Load-out	Twin Star Surface Mine	Closed
Wabash	IL	Wabash, Edwards	Y	N/A	Reserve
White Flame Surface Mine	WV	Mingo	N	White Flame Surface Mine	Closed

EXHIBIT B

ASSUMPTION AND ASSIGNMENT NOTICE

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Attorneys for Debtors and Debtors in Possession

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

In re:

Alpha Natural Resources, Inc., et al.,

Debtors.

Chapter 11

Case No. 15-33896 (KRH)

(Jointly Administered)

**NOTICE OF (A) POTENTIAL ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (B) CURE AMOUNTS**

You are receiving this notice because you may be a counterparty to an executory contract or unexpired lease with Alpha Natural Resources, Inc. or one or more of its affiliated debtors. Please read this notice carefully as your rights may be affected by the transactions described herein.

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On October 22, 2015, Alpha Natural Resources, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), filed a motion (Docket No.) (the "Motion") seeking (a) approval of bidding procedures (the "Bidding Procedures") for the sale of certain of the Debtors' mining properties, assets and related infrastructure (together, the "Assets") and (b) after implementing the bidding procedures, approval of the sale of the Debtors' Assets to the highest or best qualified bidders (each, a "Successful Bidder").

2. By an order entered on November , 2015, the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court"), among other things, (a) approved the proposed Bidding Procedures and the form of this Notice and (b) scheduled the

hearing to approve the sale of some or all of the Assets (the "Sale Hearing") for February ____, 2016 at _____m. (prevailing Eastern Time). The Bankruptcy Court will consider the sale of some or all of the Assets to the Successful Bidder(s) and the assumption and assignment of any related executory contracts and unexpired leases at the Sale Hearing. The Sale Hearing may be adjourned from time to time, for some or all of the Assets, without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or by the filing of a notice of adjournment with the Bankruptcy Court prior to the commencement of the Sale Hearing (which may be included in a hearing agenda letter).

3. Pursuant to the Motion, the Debtors may assume and assign to a Successful Bidder one or more of the executory contracts and unexpired leases listed on Exhibit A annexed hereto (collectively, the "Potentially Assigned Agreements" and each, a "Potentially Assigned Agreement"), pursuant to section 365 of the Bankruptcy Code. Listing an agreement on the attached Exhibit A does not mean that a Successful Bidder ultimately will identify such agreement as an executory contract or unexpired lease to be assumed and assigned.

4. The Debtors have identified on the attached Exhibit A the amounts that the Debtors believe must be paid to cure all prepetition defaults and pay all amounts accrued under the Potentially Assigned Agreements as and to the extent required by sections 365(b)(1) and 365(f)(2)(A) of the Bankruptcy Code (in each instance, the "Cure Costs") in the event that such agreements are assumed and assigned to a Successful Bidder.

5. Any party wishing to (a) object to the Cure Costs as determined by the Debtors or otherwise assert that any other amounts, defaults, conditions or pecuniary losses must be cured or satisfied under any of the Potentially Assigned Agreements for such executory contract or unexpired lease to be assumed and assigned or (b) object to the assumption and assignment of any Potentially Assigned Agreements on any other basis (other than objections to adequate assurance of future performance by a Successful Bidder governed by paragraph 7 below), must file an objection (the "Assumption and Cure Objection") that (i) is in writing, (ii) sets forth the specific basis for the objection, including (as applicable) the monetary amount that the objector asserts to be due to cure defaults, and the specific types of the alleged defaults, pecuniary losses, accrued amounts and conditions to assignment and the support therefor, (iii) is filed with the Clerk of the Bankruptcy Court and (iv) is served so as to be actually received by the following parties (collectively, the "Notice Parties") by the later of **January 11, 2015** and ten business days after service of the Assumption and Assignment Notice. (the "Assumption and Cure Objection Deadline"): (A) the Debtors, Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel); (B) Debtors' counsel, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.) and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.); (C) Debtors' co-counsel, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.); (D) co-counsel to the Official Committee of Unsecured Creditors, (1) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, New York 10005 (Attn: Evan R. Fleck, Esq. and Eric K. Stodola, Esq.) and (2) Sands Anderson PC, 1111 East Main Street (23219), P.O. Box 1998, Richmond, Virginia 23218 (Attn: William A Gray, Esq.); (E) co-counsel to Citibank, N.A. and Citibank North America, Inc., as administrative and collateral

agents under the Debtors' postpetition credit facilities and prepetition first lien credit facility, (1) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Damon P. Meyer, Esq.) and (2) 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.); (F) co-counsel to the *ad hoc* group of second lien noteholders, (1) Kirland & Ellis LLP, 601 Lexington Ave., New York, New York, 10022 (Attn: Paul M. Basta, Esq., Stephen E. Hessler, Esq., and Brian E. Schartz Esq.) and (2) Kutak Rock LLP, 1111 East Main Street, Suite 800, Richmond, Virginia 23219 (Attn: Michael A. Condyles); and (G) any other parties entitled to notice under the case management procedures approved by the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (Docket No. 111).

6. Unless an Assumption and Cure Objection is filed and served before the Assumption and Cure Objection Deadline, all parties shall (a) be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts with respect to the Potentially Assigned Agreements, and the Debtors and each Successful Bidder shall be entitled to rely solely upon the Cure Costs; and (b) be forever barred and estopped from asserting or claiming against the Debtors or the Successful Bidder that any additional amounts are due or other defaults exist, that conditions to assignment must be satisfied under such Potentially Assigned Agreements or that there is any objection or defense to the assumption and assignment of such Potentially Assigned Agreements.

7. Upon the selection of a Successful Bidder for some or all of the Assets, the Debtors will (a) file a "Notice of Successful Bid" under the Bidding Procedures, which will identify the Successful Bidder, the proposed terms of sale and the relevant executory contracts and unexpired leases proposed to be assumed and assigned to the Successful Bidder, and (b) serve such notice upon each non-debtor counterparty for each applicable agreement. The deadline for objecting solely to the assignment of an executory contract or unexpired lease to such Successful Bidder (including on the basis of adequate assurance of future performance as required by section 365(f)(2)(B) of the Bankruptcy Code) will be the earlier of (a) five business days after the filing and service of Notice of Successful Bid and (b) two business days before the commencement of the Sale Hearing.

8. Where a nondebtor counterparty to a Potentially Assigned Agreement files an objection asserting a cure amount higher than the proposed Cure Costs (the "Disputed Cure Amount"), then (i) to the extent that the parties (including, if applicable, a Successful Bidder) are able to consensually resolve the Disputed Cure Amount prior to the Sale Hearing, the Debtors will promptly provide the Consultation Parties (as defined in the Bidding Procedures) with notice and opportunity to object to such proposed resolution or (ii) to the extent the parties are unable to consensually resolve the dispute prior to the Sale Hearing or any of the Consultation Parties files an objection, then the amount to be paid under section 365 of the Bankruptcy Code with respect to such Disputed Cure Amount will be determined at the Sale Hearing or at such other date and time as may be fixed by the Bankruptcy Court. All other objections to the proposed assumption and assignment of a Potentially Assigned Agreement will be heard at the Sale Hearing.

9. An Assumption and Cure Objection will not constitute an objection to the sale of Assets requested in the Motion or the other terms of a Sale Order approving such sale.

Parties wishing to otherwise object to a proposed sale of the Assets must file and serve a separate objection, stating with particularity such party's grounds for objection, so as to be received by each of the Notice Parties listed above no later than **January 20, 2015**.

10. If you agree with the Cure Costs indicated on Exhibit A, and otherwise do not object to the Debtors' assignment of your lease or contract, you need not take any further action.

11. The Debtors' decision to assume and assign the Potentially Assigned Agreements is subject to Bankruptcy Court approval and consummation of the sale of the Assets. Accordingly, the Debtor shall be deemed to have assumed and assigned each of the Potentially Assigned Agreements only as of the date of, and effective and conditioned upon, the closing of the sale of the Assets. Absent such closing, each of the Potentially Assigned Agreements shall neither be deemed assumed nor assigned and shall in all respects be subject to further administration under the Bankruptcy Code.

12. Inclusion of any document on the list of Potentially Assigned Agreements shall not constitute or be deemed to be a determination or admission by the Debtors or any Successful Bidder that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and all rights with respect thereto are being expressly reserved.

Dated: November __, 2015
Richmond, Virginia

Respectfully submitted,

/s/ Henry P. (Toby) Long, III
Tyler P. Brown (VSB No. 28072)
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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A¹

EXECUTORY CONTRACTS

Counterparty Name / Address	Description of Contract	Proposed Cure Costs

UNEXPIRED LEASES

Lessor Name / Address	Address or Description of Subject Property	Proposed Cure Costs

¹ Listing an agreement on this schedule does not guaranty that any Successful Bidder will agree to take an assignment of such agreement. The Debtors' ultimate decision to assume and assign the any agreement on this list is subject to Bankruptcy Court approval and consummation of the related sale of Assets. Absent such conditions being satisfied, the listed agreements shall neither be deemed assumed nor assigned and shall in all respects be subject to further administration under the Bankruptcy Code.

Inclusion of any document on the list of Potentially Assigned Agreements shall not constitute or be deemed to be a determination or admission by the Debtors or any Successful Bidder that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and all rights with respect thereto are being expressly reserved.

EXHIBIT C

AUCTION AND HEARING NOTICE

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Justin F. Paget (VSB No. 77979)

Attorneys for Debtors and Debtors in Possession

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

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

**NOTICE OF AUCTION AND SALE HEARING FOR
THE SALE OF CERTAIN OF THE DEBTORS' MINING PROPERTIES**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. Bankruptcy Filing. On August 3, 2015, Alpha Natural Resources, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court").

2. Motion to Approve Bidding Procedures. On October 22, 2015, the Debtors filed a motion (Docket No. ___) (the "Motion"), pursuant to sections 105, 363 and 365 of the Bankruptcy Code; Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"); and Local Rule 6004-2 of the United States Bankruptcy Court for the Eastern District of Virginia. The Motion sought the entry of an order (the "Bidding Procedures Order"): (a) approving procedures (the "Bidding Procedures") for interested parties to submit bids to purchase certain of the Debtors' mining properties, assets and related infrastructure, as described in more detail on Annex A thereto (collectively, as amended, modified or supplemented from time to time, the "Assets" and, such schedule, the "Asset Schedule"); (b) scheduling one or more auctions (each, an "Auction") for the sale(s) of some or

all of the Assets; (c) scheduling one or more hearings to approve the sale(s) of some or all of the Assets (each, a "Sale Hearing"); (d) approving the form and manner of the notice of the Auction and the Sale Hearing; and (e) approving procedures for the assumption, assignment and sale of the Assumed and Assigned Agreements (as defined in the Bidding Procedures Order) to any purchaser(s) of the Assets, and/or to resolve any objections thereto (the "Contract Procedures").

3. Motion for Entry of Sale Order(s). The Motion also expressly sought the entry of one or more orders (each, a "Sale Order") approving the sale of some or all of the Assets to successful bidders in the Bidding Procedures (each, a "Successful Bidder") after a Sale Hearing to consider such sale transaction.

4. Free and Clear Sales; Good Faith Purchaser. Pursuant to section 363(f) of the Bankruptcy Code, and except as otherwise provided in the final agreement approved by the Bankruptcy Court, all of the Debtors' right, title and interest in and to the Assets are proposed to be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), interests and encumbrances (collectively, "Liens"), with any Liens to attach to the proceeds of the sale as provided in the final Sale Order. In addition, the Sale Order will include proposed findings that the any successful bidder is a "good faith purchaser," as that term is defined in section 363(m) of the Bankruptcy Code, and has not violated section 363(n) of the Bankruptcy Code.

5. The Bidding Procedures Order. On November ____, 2015 the Bankruptcy Court entered the Bidding Procedures Order, approving the Bidding Procedures (Docket No. __). Under the Bidding Procedures, interested potential purchaser must fulfill certain requirements to (a) participate in the bid process and (b) become "Qualified Bidders" and submit "Qualified Bids." Among other things, Qualified Bidders must propose to purchase of certain Assets by showing the proposed changes to a form of Asset Purchase Agreement ("APA") and a form of Sale Order provided to bidders and filed with the Bankruptcy Court (Docket No. __). The modified forms of these documents proposed by bidders are referred to as the "Marked Documents."

6. The Auction. Pursuant to the Bidding Procedures Order, if more than one Qualified Bid is received for a particular Asset or group of Assets, or if the Debtors otherwise determine that it would promote the sale process, the Debtors will conduct an Auction for the applicable Assets. The initial Auction currently is scheduled to take place at offices of the Debtors' counsel, Jones Day, at 222 East 41st Street, New York, New York 10017, at 10:00 a.m. (prevailing Eastern Time) on January 27, 2016. Only parties that have submitted a Qualified Bid, as set forth in the Bidding Procedures Order, by no later than January 20, 2016 at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline"), or that otherwise are Potential Bidders under the Bidding Procedures and are invited by the Debtors, may bid at the Auction. Subject to the terms of the Bidding Procedures, any party that wishes to take part in this process and submit a bid for any portion of the Assets must submit their competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. Under the Bidding Procedures, the Debtors may reschedule the Auction for some or all of the Assets upon notice to the Qualified Bidders. In addition, if no viable competing bid is received for a particular asset or under other circumstances described in the Bidding Procedures, the Debtors may designate a bidder as a Successful Bidder for particular Assets without conducting the Auction.

7. Notice of Successful Bidder. Upon the Debtors designating a Successful Bidder for some or all of the Assets, the Debtors will file with the Bankruptcy Court a notice of the Successful Bid, along with copies of the Marked Documents showing the proposed changes to the forms of APA and Sale Order previously filed with the Court (a "Notice of Successful Bid"). A Notice of Successful Bid shall be filed not less than five business days before the Sale Hearing. The Debtors will serve the Notice of Successful Bid as set forth in the Bid Procedures Order.

8. Sale Hearing. The Sale Hearing to consider approval of the sale(s) of the Assets to the Successful Bidder(s), free and clear of all liens, claims and encumbrances, will be held on February __, 2016 at _____.m. (prevailing Eastern Time). The Sale Hearing will be held before the Honorable Kevin R. Huennekens, United States Bankruptcy Judge, Courtroom 5000, United States Bankruptcy Court, 701 East Broad Street, Richmond, Virginia 23219. The Sale Hearing may be adjourned from time to time, for some or all of the Assets, without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or by the filing of a notice of adjournment with the Bankruptcy Court prior to the commencement of the Sale Hearing (which may be included in a hearing agenda letter).

9. Objections and Deadline. Objections, if any, to the potential sale of the Assets on the terms proposed in the forms of APA and Sale Order filed with the Bankruptcy Court, must: (a) be in writing (each, an "Objection"); (b) state with specificity the nature of the objection, (c) comply with the Bankruptcy Rules and Local Rules; and (d) be filed with the clerk of the Bankruptcy Court, 701 East Broad Street, Richmond, Virginia 23219, on or before **January 20, 2016** (the "Objection Deadline");¹ and be served upon the following parties (collectively, the "Notice Parties"): (i) the Debtors, Alpha Natural Resources, Inc., One Alpha Place, P.O. Box 16429, Bristol, Virginia 24209 (Attn: Richard H. Verheij, Esq., General Counsel); (ii) Debtors' counsel, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.) and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.); (iii) Debtors' co-counsel, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.); (iv) co-counsel to the Official Committee of Unsecured Creditors, (A) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, New York 10005 (Attn: Evan R. Fleck, Esq. and Eric K. Stodola, Esq.) and (B) Sands Anderson PC, 1111 East Main Street (23219), P.O. Box 1998, Richmond, Virginia 23218 (Attn: William A Gray, Esq.); (v) co-counsel to Citibank, N.A. and Citibank North America, Inc., as administrative and collateral agents under the Debtors' postpetition credit facilities and prepetition first lien credit facility, (A) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Damon P. Meyer, Esq.) and (B) 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.); (vi) co-counsel to the *ad hoc* group of

¹ In addition, within ten business days after the Debtors add any Assets to the Asset Schedule, the Debtors will file a copy of the revised Asset Schedule (the "Revised Asset Schedule") and will serve the Revised Asset Schedule on the parties receiving this Notice and other parties as set forth in the Bid Procedures Order. The Objection Deadline solely with respect to Assets added to the Asset Schedule will be the later of January 20, 2016 and seven business days after filing and service of the Revised Asset Schedule.

second lien noteholders, (A) Kirland & Ellis LLP, 601 Lexington Ave., New York, New York, 10022 (Attn: Paul M. Basta, Esq., Stephen E. Hessler, Esq., and Brian E. Schartz Esq.) and (B) Kutak Rock LLP, 1111 East Main Street, Suite 800, Richmond, Virginia 23219 (Attn: Michael A. Condyles); and (vii) any other parties entitled to notice under the case management procedures approved by the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (Docket No. 111).

10. **Objection to Notice of Successful Bidder.** Parties wishing to object to any additional issues raised by the Notice of Successful Bid based solely on the changes identified in the Marked Documents must (a) file a written Objection with the Bankruptcy Court limited to these issues and (b) serve such Objection on the Notice Parties and the Successful Bidder no later than the earlier of (a) five business days after the filing and service of the Notice of Successful Bid and (b) two business days before a Sale Hearing.

11. **Failure to File an Objection.** **UNLESS AN OBJECTION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED WITHOUT FURTHER HEARING AND NOTICE.**

12. **Bidding Procedures Order Controls.** This Notice of Auction and Sale Hearing is subject to the terms and conditions of the Bidding Procedures Order (including the Bidding Procedures attached thereto), with the Bidding Procedures Order controlling in the event of any conflict. As such, the Debtors encourage parties-in-interest to review such documents carefully and in their entirety.

13. **Separate Contract Procedures Notice.** Parties to executory contracts and unexpired leases proposed to be assumed and assigned to purchasers of the Assets will receive a separate notice under the Contract Procedures.

14. **Parties Interested in Bidding.** Parties interested in participating in the Bidding Procedures and becoming Qualified Bidders thereunder should direct inquiries to Matthew Chou or Gideon Volschenk of Rothschild, Inc. (the Debtors' investment banker) at matthew.chou@rothschild.com or gideon.volschenk@rothschild.com.

15. **Other Inquiries.** Parties with other inquiries about the sale of the Assets, any of the related documents or other matters regarding the Bankruptcy Court approval process, including the Bidding Procedures, the Contract Procedures or the objection procedures, may make a written request to: (a) counsel to the Debtors, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Carl E. Black, Esq.) email: ceblack@jonesday.com, and Jones Day, 1420 Peachtree St. NE, Suite 800, Atlanta, Georgia 30309 (Attn: Jeffrey B. Ellman, Esq.), email: jbellman@jonesday.com and (b) co-counsel to the Debtors, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219 (Attn: Tyler P. Brown, Esq.); email: tpbrown@hunton.com. In addition, copies of the Motion, the Bidding Procedures Order, the Bidding Procedures, the form of APA and Sale Order and this Notice are on file with the Bankruptcy Court, and may accessed free of charge on the Debtors' website maintained in these cases at <http://www.kccllc.net/alpharestructuring>.

Dated: November ____, 2015
Richmond, Virginia

Respectfully submitted,

/s/ Henry P. (Toby) Long, III
Tyler P. Brown (VSB No. 28072)
J.R. Smith (VSB No. 41913)
Henry P. (Toby) Long, III (VSB No. 75134)
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