

Objection Deadline: July 26, 2012 at 4:00 pm (prevailing Eastern Time)
Hearing Date (if necessary): August 2, 2012 at 2:00 pm (prevailing Eastern Time)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**DEBTORS' MOTION FOR APPROVAL OF EXPEDITED PROCEDURES
FOR (i) THE SALE OF CERTAIN ASSETS FREE AND CLEAR OF LIENS,
CLAIMS AND ENCUMBRANCES AND (ii) THE ABANDONMENT
OF CERTAIN OF THE DEBTORS' PROPERTY**

Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") respectfully represent:

Relief Requested

1. The Debtors seek authorization in the form attached hereto as Exhibit A to establish certain procedures (the "**Procedures**") pursuant to (i) sections

¹ The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

105(a) and 363 of title 11 of the United States Code (the “**Bankruptcy Code**”) to sell certain obsolete, surplus, burdensome or otherwise expendable assets having a Sale Price (defined below) of \$5,000,000 or less where such sale is arguably outside the ordinary course of the Debtors’ businesses and (ii) sections 105(a) and 554(a) of the Bankruptcy Code to abandon any *de minimis* assets where a sale cannot be consummated at a price greater than the costs of such sale (taking into account costs of, among other things, interim storage, shipping and marketing) (such assets identified in clauses (i) and (ii) collectively, the “**De Minimis Assets**”).²

2. The Court entered an Order Granting Debtors’ Motion for an Order Establishing Certain Notice, Case Management and Administrative Procedures entered on July 16, 2012 [ECF No. 84] (the “**Case Management Order**”). If the Procedures conflict with the Case Management Order, the Procedures shall control with respect to the sale or abandonment of De Mimimis Assets. In all other circumstances, except as otherwise provided by separate order, the Case Management Order shall govern.

3. Before the Petition Date (as defined below), the Debtors routinely and in the ordinary course of business sold or, when necessary, otherwise disposed of non-core assets that were unnecessary or could not be used profitably in their operations, shedding the costs associated with maintaining unneeded assets and bolstering the Debtors’ cash position by monetizing De Minimis Assets. Further, the Debtors have been and are actively implementing cost-cutting and revenue enhancing measures

² For purposes of this Motion, a sale shall include, and the Procedures shall apply to, entry into exchange agreements that the Debtors enter into in the ordinary course of their businesses, which involve swapping non-strategic coal mineral rights or other assets for cash, other assets or coal mineral rights, that are strategic to the Debtors’ operations. A sale shall not include any transaction covered by any interim or final order authorizing the Debtors, in the ordinary course of their businesses, to enter into and perform under contracts with customers to sell coal from the Debtors’ mining operations or acquired from other sources.

through a variety of means. As a result, the Debtors have determined and, as these chapter 11 cases progress, may continue to determine that certain De Minimis Assets, including real property, equipment, coal reserves and other miscellaneous assets, are obsolete, superfluous, expendable or otherwise burdensome to their estates. The Procedures will maximize the value of the De Minimis Assets to the Debtors' estates, reduce the burden of maintaining the De Minimis Assets, and facilitate a decrease in the Debtors' indebtedness and an improvement in their cash position. While market conditions are indeed uncertain, the Debtors anticipate that sales of De Minimis Assets could provide incremental liquidity to the Debtors going forward.

4. It would not be an efficient use of the Debtors' resources or the Court's time to seek Court approval each and every time the Debtors have an opportunity to sell De Minimis Assets. Also, to the extent a sale of De Minimis Assets would generate less revenue to the Debtors than the amount of cash expended in the sale process (taking into account costs of, among other things, interim storage, shipping and marketing), the Debtors seek authority to abandon De Minimis Assets without further Court approval. Accordingly, subject to the Procedures, the Debtors request authorization to sell or abandon De Minimis Assets (all of which would likely be in the ordinary course of business in any event) without the need to obtain any further Court approval.

Background and Jurisdiction

5. On July 9, 2012 (the "**Petition Date**"), each Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. These chapter 11 cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and the Court’s Joint Administration Order entered on July 10, 2012 [ECF No. 30].

7. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed on July 9, 2012 [ECF No. 4], which is incorporated herein by reference.

8. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

The Sale Procedures

9. The Debtors request that the following Procedures be implemented in connection with sales of De Minimis Assets. The Debtors propose the Procedures as an alternative to those set forth in Local Bankruptcy Rule 6004-1 and submit that the requirements of such rule be waived with respect to any sale or abandonment of De Minimis Assets undertaken by the Debtors pursuant to the Procedures.

10. For purposes of the Procedures, the net benefit estimated to be realized by the Debtors’ estates shall constitute the “**Sale Price.**”³ The net benefit is the amount of cash consideration or fair market value of non-cash consideration estimated to be received by the Debtors plus the value of any liabilities to be assumed by the

³ Solely for the purposes of the Procedures and the calculation of the Sale Price, entry into a series of related sales within any given thirty-day period between any of the Debtors, on the one hand, and any given counterparty or its affiliates, on the other hand, shall be deemed to be entry into a single sale.

purchaser (to the extent quantifiable or reasonably estimable, as determined by the Debtors in their discretion), less expenses to be incurred in connection with the sale, offsets or other deductions (to the extent quantifiable or reasonably estimable, as determined by the Debtors in their discretion). The Sale Price shall be determined without consideration as to whether the property for sale is free and clear of all liens, claims, interests and encumbrances.

A. Sale Price Less than or Equal to \$2,000,000

11. If the Sale Price of a De Minimis Asset is less than or equal to \$2,000,000, no notice or hearing shall be required.

B. Sale Price Greater than \$2,000,000 and Less than or Equal to \$5,000,000

12. If the Sale Price for the sale of a De Minimis Asset that the Debtors believe is arguably outside of the ordinary course of the Debtors' businesses is greater than \$2,000,000 and less than or equal to \$5,000,000, the following Procedures shall be followed:

a. The Debtors shall file a notice with the Court, substantially in the form attached to the Motion as Exhibit B (the "**Sale Notice**"), specifying (i) the De Minimis Assets to be sold, (ii) if the purchaser is an "affiliate", as that term is defined under section 101(2) of the Bankruptcy Code, of any of the Debtors, the identity of such purchaser, (iii) any commissions to be paid to third parties (such as brokers) and (iv) the proposed purchase price. The Debtors shall serve the Sale Notice only on the following parties: (i) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg (the "**U.S. Trustee**"), (ii) attorneys for the

administrative agents for the Debtors' postpetition lenders, (iii) the attorneys for any official committee of unsecured creditors then appointed in these cases and (iv) any person or entity with a particularized interest in the De Minimis Assets to be sold, including any known creditor asserting a lien, claim, interest or encumbrance (any of the foregoing, a "**Lien**") on such De Minimis Assets.

b. The deadline for filing an objection (an "**Objection**") to the proposed sale of De Minimis Assets shall be 4:00 p.m. (prevailing Eastern time) on the day that is 10 days from the date the Sale Notice is filed and served (the "**Sale Objection Deadline**").

c. An Objection will be considered timely only if it is filed with the Court, One Bowling Green, New York, New York 10004-1408 and actually received by the following parties on or before the Sale Objection Deadline: (i) the U.S. Trustee, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors' postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and (b) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

d. Unless otherwise ordered by the Court, a reply to an Objection may be filed with the Court and served on or before 12:00 p.m. (prevailing

Eastern Time) on the day that is at least two business days before the date of the applicable hearing.

e. If no Objections are timely received and filed by the Sale Objection Deadline, the Debtors may immediately sell the De Minimis Assets listed in the Sale Notice and take any actions and execute any agreements or other documentation that are necessary or desirable to close the transaction and obtain the sale proceeds. If an Objection is timely received and filed and cannot be settled by the Debtors and the objecting parties, the De Minimis Asset that is the subject of the Objection will not be sold except upon order of the Court; *provided, however*, that any De Minimis Asset set forth in the Sale Notice that is not the subject of an Objection may be immediately sold in accordance with the foregoing sentence.

C. Sale Price Greater than \$5,000,000

13. If the Sale Price for the sale of a De Minimis Asset that the Debtors believe is arguably outside of the ordinary course of the Debtors' businesses is greater than \$5,000,000, the Debtors shall file a motion with the Court requesting approval of the sale.

D. Commissions to Third Parties

14. The Debtors shall be permitted to compensate any broker engaged by the Debtors in connection with any sale or attempted sale of De Minimis Assets; *provided, however*, that if an Objection to the payment of any broker's fees is timely received and filed by the Sale Objection Deadline, then the portion of such broker's fees to which the Objection is directed shall not be paid until such Objection is consensually

settled or until the Court approves such payment. This provision shall constitute a waiver of the requirements under Local Bankruptcy Rule 6005-1 with respect to any brokers.

**Approval of the Sale Procedures is in the Best
Interests of the Debtors and their Estates and Creditors**

15. The Court has the authority to grant the relief requested herein. Section 363(b)(1) of the Bankruptcy Code empowers the Court to allow the debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” Debtors’ decisions to use, sell or lease assets outside the ordinary course of business must be based upon the sound business judgment of the debtor. *See In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992) (holding that a judge determining a section 363(b) application must find from the evidence presented before him a good business reason to grant such application); *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983) (same); *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989) (noting that the standard for determining a section 363(b) motion is “good business reason”).

16. The business judgment rule is satisfied “when the following elements are present: (1) a business decision, (2) disinterestedness, (3) due care, (4) good faith, and (5) according to some courts and commentators, no abuse of discretion or waste of corporate assets.” *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993) (internal quotations omitted). In fact, “[w]here 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.” *Comm. of Asbestos Related Litigants and/or*

Creditors v. Johns Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). Courts in this district have consistently and appropriately been loath to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence, and will uphold a board's decisions as long as they are attributable to any "rational business purpose." *In re Integrated Res. Inc.*, 147 B.R. at 656. The Debtors submit that the requested relief represents a sound exercise of the Debtors' business judgment and is justified under section 363(b).

17. In *In re Lionel Corp.*, the Court set forth certain factors for bankruptcy courts to consider when deciding whether the movant has demonstrated good business judgment in proposing the sale, including evaluating the proportionate value of the asset to the estate as a whole. In this case, the De Minimis Assets are not integral in any way to the Debtors' businesses and, each having a sale value no greater than \$5,000,000, represent a small fraction compared to the value of the Debtors' estates as a whole. See *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675-76 (Bankr. S.D.N.Y. 1989) (court approved sale of assets under section 363(b) of the Bankruptcy Code that represented approximately 2.9% of the debtor's total net book value). Accordingly, each sale consummated pursuant to this Motion would satisfy section 363(b) of the Bankruptcy Code.

18. The Procedures will expedite the flow of cash into the estates, eliminating the need to prepare and prosecute motions and obtain express court approval of every sale. In addition, the Procedures will protect the Debtors against the declining value of the De Minimis Assets, save the Debtors potentially significant interim storage costs, eliminate certain administrative costs, reduce professional fees and expedite the

sale of the De Minimis Assets for the benefit of the Debtors' estates and their creditors. The Procedures constitute the most efficient and cost-effective way to capitalize on the value of the De Minimis Assets, while protecting the best interests of the Debtors, their estates, and their creditors.

19. While the Debtors request authorization to sell assets with a Sale Price less than or equal to \$5,000,000, the Debtors believe that many individual transactions will be for substantially less value. The proposed Sale Price limitations are modest and appropriate in view of the circumstances and size of the Debtors' estates.

20. Furthermore, compensating brokers engaged by the Debtors in connection with the sale of De Minimis Assets is in the best interest of the Debtors' estates and their creditors.

**The De Minimis Assets Should be Sold Free
and Clear of Liens, Claims and Encumbrances**

21. Pursuant to section 363(f) of the Bankruptcy Code, a debtor may sell property free and clear of liens, claims and encumbrances if one of the following conditions is satisfied: (i) applicable non-bankruptcy law permits sale of the property free and clear of such interest, (ii) an entity holding the lien, claim or encumbrance consents to the proposed sale, (iii) the 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 the property, (iv) the interest is in bona fide dispute or (v) the entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of its interest. 11 U.S.C. § 363(f). *See Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (court may approve sale "free and clear" provided at least one of the subsections is met); *see also Abir v. Stern*, No. 09 CV 2892, 2010 WL 1170060, at *2 (E.D.N.Y. Mar. 22, 2010)

(quoting *In re Dundee Equity Corp.*, No. 89-B-10233, 1992 WL 53743, at *34 (Bankr. S.D.N.Y. Mar. 6, 1992) (“Section 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.”)).

22. The Debtors submit that the Procedures satisfy section 363(f) of the Bankruptcy Code. Any holder of a Lien on any De Minimis Assets to be sold, with a Sale Price greater than \$2,000,000, will receive the Sale Notice and will have an opportunity to object to any sale in which they claim an interest. If a holder of a Lien receives the Sale Notice and does not object within the prescribed time period, the Lien holder will be deemed to have consented to the proposed sale and the property may then be sold free and clear of the holder’s interests pursuant to section 363(f) with any such Liens to be, at the Debtors’ sole discretion, either (i) satisfied from the proceeds of the sale or (ii) transferred and attached to the net sale proceeds in the same order of priority that such liens had on the De Minimis Assets sold.

23. In approving the sales of De Minimis Assets free and clear of Liens, the Debtors request the Court find that those who purchase De Minimis Assets in accordance with the Procedures are entitled to the protections afforded by section 363(m) of the Bankruptcy Code. This relief is appropriate in light of the opportunity for review and objection provided herein.

24. Bankruptcy Rule 2002(a)(2) provides that, for cause shown, the court may “direct another method of giving notice” of a proposed sale of property of the estate. The Debtors submit that good cause has been shown for approval and

implementation of the Procedures as an alternative to the notice procedures of Bankruptcy Rule 2002.

25. Finally, section 105 of the Bankruptcy Code provides, in relevant part, that “[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105. The Debtors submit that implementation of the Procedures is appropriate in these chapter 11 cases and within the Court’s equitable powers under section 105 of the Bankruptcy Code. Similar procedures have been approved in other complex chapter 11 cases. *See, e.g., In re Eastman Kodak Co.*, Case No. 12-10202 (ALG) (Bankr. S.D.N.Y. Feb. 28, 2012); *In re The Great Atl. & Pac. Tea Co.*, Case No. 10-24549 (RDD) (Bankr. S.D.N.Y. Mar. 10, 2011); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (PCB) (Bankr. S.D.N.Y. Oct. 7, 2005).

A Waiver of Bankruptcy Rule 6004(h) is Warranted

26. In addition, by this Motion, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” The Debtors submit that the order approving the Procedures, and any sale consummated pursuant to the Procedures, be effective immediately. It is in the best interests of the Debtors’ estates to facilitate the sale transaction closing, thereby expediting the flow of related sale proceeds into these estates. Moreover, allowing the Debtors to close a sale transaction quickly will ease the often-difficult task of securing a buyer. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

The Abandonment Procedures

27. The Debtors expect to take all reasonable steps to sell the De Minimis Assets. However, these assets include obsolete materials and equipment, non-repairable equipment and other assets that may not be saleable or where the costs of marketing or storing the assets in preparation for sale are likely to exceed the proceeds therefrom. Accordingly, the Debtors submit that, to the extent the Debtors determine a sale of De Minimis Assets cannot be consummated at a price greater than the costs of sale, such De Minimis Assets may be abandoned in accordance with the following procedures.

A. De Minimis Assets to be Abandoned Less than or Equal to \$2,000,000

28. If the estimated gross proceeds⁴ of the De Minimis Asset to be abandoned are less than or equal to \$2,000,000, the Debtors shall serve notice on the person or entity to whom the personal property is to be abandoned and any person or entity known to the Debtors as having an interest in the De Minimis Asset to be abandoned, including any known creditor asserting a Lien on the De Minimis Asset to be abandoned. Such notice shall be served five business days before such De Minimis Assets are abandoned.

B. De Minimis Assets to be Abandoned Greater than \$2,000,000 or Less than or Equal to \$5,000,000

29. If the estimated gross proceeds of the De Minimis Asset to be abandoned are greater than \$2,000,000 and less than or equal to \$5,000,000, the following Procedures shall be followed:

⁴ Solely for the purposes of the Procedures and the estimation of gross proceeds, entry into a series of related abandonments within any given thirty-day period to any given counterparty or its affiliates shall be deemed a single abandonment.

a. The Debtors shall file a notice with the Court, substantially in the form attached to the Motion as Exhibit C (the “**Abandonment Notice**”), specifying (i) the property to be abandoned, (ii) the reason for the abandonment, (iii) the parties known to the Debtors as having an interest in the property to be abandoned and (iv) the entity to which the personal property is to be abandoned. The Debtors shall serve the Abandonment Notice on the following parties: (i) the U.S. Trustee, (ii) the attorneys for any official committee of unsecured creditors then appointed in these cases, (iii) attorneys for the administrative agents for the Debtors’ postpetition lenders, (iv) any person or entity known to the Debtors as having an interest in the De Minimis Asset to be abandoned, including any known creditor asserting a Lien on the De Minimis Asset to be abandoned and (v) the entity to which the personal property is to be abandoned.

b. The deadline for the filing of an Objection to the proposed abandonment of De Minimis Assets shall be 4:00 p.m. (prevailing Eastern time) on the day that is 10 days from the date the Abandonment Notice is filed and served (the “**Abandonment Objection Deadline**”).

c. An Objection will be considered timely only if it is filed with the Court, One Bowling Green, New York, New York 10004-1408, and actually received by the following parties on or before the Abandonment Objection Deadline: (i) the U.S. Trustee, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors’ postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and (b) Willkie Farr &

Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

d. Unless otherwise ordered by the Court, a reply to an Objection may be filed with the Court and served on or before 12:00 p.m. (prevailing Eastern Time) on the day that is at least two business days before the date of the applicable hearing.

e. If no Objections are timely received and filed by the Abandonment Objection Deadline, the Debtors may immediately abandon the De Minimis Asset listed in the Abandonment Notice and take any actions that are necessary or desirable to abandon the subject property. If an Objection is timely received and filed and cannot be resolved between the Debtors and the objecting party, the De Minimis Asset that is the subject of the Objection will not be abandoned except upon order of the Court; *provided, however*, that any De Minimis Asset set forth on the applicable Abandonment Notice and not the subject of an Objection may immediately be abandoned in accordance with the foregoing sentence.

C. De Minimis Assets to be Abandoned Greater than \$5,000,000

30. If the estimated gross proceeds of the De Minimis Asset to be abandoned are greater than \$5,000,000, the Debtors shall file a motion with the Court requesting approval of the abandonment.

Approval of the Abandonment Procedures is in the Best Interests of the Debtors and their Estates and Creditors

31. Section 554(a) of the Bankruptcy Code provides that a debtor in possession “[a]fter notice and a hearing . . . may abandon any property of the estate

that . . . is of inconsequential value and benefit to the estate.” The right to abandon property is, except for certain exceptions inapplicable in this case, unfettered. *In re Midlantic National Bank*, 474 U.S. 494, 502 (1986).

32. A De Minimis Asset will not be abandoned by the Debtors unless, in the Debtors’ business judgment, the sale of the asset will not generate value to the Debtors’ estates. While the Debtors shall use reasonable efforts to consummate a sale of each of the De Minimis Assets, there may be little, if any, demand for certain of the Debtors’ assets in today’s marketplace. For example, certain of the Debtors’ assets are unique to the Debtors’ businesses and cannot be used by other entities. As such, the demand for some of the Debtors’ assets is minimal and Sale Prices are so discounted that, in many cases, it will be more costly for the Debtors to sell the assets than abandon them. The Debtors submit that, where the cost savings associated with such abandonment exceeds the available sale proceeds (taking into account costs of, among other things, interim storage, shipping and marketing), the assets are of inconsequential value and benefit to the estates and, as such, are appropriate for abandonment pursuant to section 554(a) of the Bankruptcy Code.

33. The Procedures represent the exercise of sound business judgment, are fair and appropriate, and balance the need to expeditiously relieve the Debtors of burdensome costs while providing advance notice of proposed property dispositions to interested parties. The Debtors will not abandon De Minimis Assets where the abandonment would pose an environmental hazard or where a serious risk to the public is likely to result.

34. Bankruptcy Rule 6007 allows discretion of the Court to limit notice and the time for filing objections to any abandonment of property. The Debtors submit that requiring notice of abandonment of De Minimis Assets be given to all creditors and indenture trustees would be unnecessarily expensive, time consuming, and would not provide any useful purpose. Furthermore, the Debtors submit that any reduction of time to file an objection to abandonment will not prejudice the rights of any party in interest. Accordingly, the Debtors request the Court limit notice under Bankruptcy Rule 6007 to the parties in interest set forth herein and limit the time for filing objections as set forth herein.

35. Finally, Local Bankruptcy Rule 6007-1 requires that a notice of a proposed abandonment describe the property to be abandoned, concisely state the reason for the proposed abandonment and identify the entity to which the property is proposed to be abandoned. The Debtors submit that the Abandonment Notice satisfies such requirements.

Notice

36. Consistent with the Case Management Order, the Debtors will serve notice of this Motion on (a) the Core Parties and (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order). All parties who have requested electronic notice of filing in these cases through the Court's ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of this motion and any order approving it will also be made available on the Debtors' Case Information Website (located at www.PatriotCaseInfo.com). In light of the relief requested, the Debtors submit no further notice is necessary. Pursuant to paragraph 21 of the Case Management Order, if no

objections are timely filed and served in accordance therewith, an order granting the relief requested herein may be entered without a hearing.

No Previous Request

37. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York
July 19, 2012

By: /s/ Damian S. Schaible

Marshall S. Huebner
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*Proposed Counsel to the Debtors
and Debtors in Possession*

Exhibit A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**ORDER APPROVING EXPEDITED
PROCEDURES FOR (i) THE SALE
OF CERTAIN ASSETS FREE AND CLEAR OF LIENS,
CLAIMS AND ENCUMBRANCES AND (ii) THE
ABANDONMENT OF CERTAIN OF THE DEBTORS' PROPERTY**

Upon the motion dated July 19, 2012 (the "**Motion**")² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**"), for authorization to establish expedited procedures (the "**Procedures**"), pursuant to (i) sections 105(a) and 363 of the Bankruptcy Code for the sale of certain assets arguably outside the ordinary course of the Debtors' businesses for a Sale Price of \$5,000,000 or less (the "**De Minimis Assets**") free and clear of liens, claims, and encumbrances and (ii) sections 105(a) and 554(a) of the Bankruptcy Code for the abandonment of certain of the De Minimis Assets, as more fully described in the Motion;³ and the Court having jurisdiction to consider the Motion and

¹The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

³ For purposes of this Motion, a sale shall include, and the Procedures shall apply to, entry into exchange agreements that the Debtors enter into in the ordinary course of their businesses, which involve

the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and proper notice of the Motion having been provided in accordance with the Case Management Order; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion [and having held a hearing with appearances of parties in interest noted in the transcript thereof (the “**Hearing**”)]; and the Court having determined that the legal and factual bases set forth in the Motion [and at the Hearing] establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the relief requested in the Motion is hereby granted; and it is further

ORDERED that the Procedures are hereby approved and may be implemented in the Debtors’ chapter 11 cases; and it is further

ORDERED that if the Procedures conflict with the Case Management Order, the Procedures shall control with respect to the sale and abandonment of De

swapping non-strategic coal mineral rights or other assets for cash, other assets or coal mineral rights, that are strategic to the Debtors’ operations. A sale shall not include any transaction covered by any interim or final order authorizing the Debtors, in the ordinary course of their businesses, to enter into and perform under contracts with customers to sell coal from the Debtors’ mining operations or acquired from other sources.

Minimis Assets. In all other circumstances, except as otherwise provided by separate order, the Case Management Order shall govern; and it is further

ORDERED that Local Bankruptcy Rules 6004-1 and 6005-1 are hereby waived with respect to any sale of De Minimis Assets undertaken pursuant to the Procedures; and it is further

ORDERED that for purposes of the Procedures, the net benefit estimated to be realized by the Debtors' estates from the sale of an asset shall constitute the "**Sale Price.**"⁴ The net benefit is the amount of cash consideration or fair market value of non-cash consideration estimated to be received by the Debtors plus the amount of liabilities to be assumed by the purchaser (to the extent quantifiable or reasonably estimable, as determined by the Debtors in their discretion), less expenses to be incurred in connection with the sale, offsets or other deductions (to the extent quantifiable or reasonably estimable, as determined by the Debtors in their discretion). The Sale Price shall be determined without consideration of whether the property for sale is free and clear of all liens, claims, interests and encumbrances; and it is further

ORDERED that if the Sale Price of a De Minimis Asset is less than or equal to \$2,000,000, the Debtors are hereby authorized to sell such De Minimis Assets without further notice to any party or hearing; and it is further

ORDERED that if the Sale Price for the sale of a De Minimis Asset that the Debtors believe is arguably outside of the ordinary course of the Debtors' businesses

⁴ Solely for the purposes of the Procedures and the calculation of the Sale Price, entry into a series of related sales within any given thirty-day period between any of the Debtors, on the one hand, and any given counterparty or its affiliates, on the other hand, shall be deemed to be entry into a single sale.

is greater than \$2,000,000 and less than or equal to \$5,000,000, the following Procedures shall be followed:

a. The Debtors shall file a notice with the Court, substantially in the form attached to the Motion as Exhibit B (the “**Sale Notice**”), specifying (i) the assets to be sold, (ii) if the purchaser is an “affiliate”, as that term is defined under section 101(2) of the Bankruptcy Code, of any of the Debtors, the identity of such purchaser, (iii) any commissions to be paid to third parties (such as brokers) and (iv) the proposed purchase price. The Debtors shall serve the Sale Notice on the following parties: (i) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg (the “**U.S. Trustee**”), (ii) attorneys for the administrative agents for the Debtors’ postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and (b) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso, (iii) the attorneys for any official committee of unsecured creditors then appointed in these cases and (iv) any person or entity with a particularized interest in the De Minimis Assets to be sold, including any known creditor asserting a lien, claim, interest or encumbrance on the De Minimis Assets.

b. The deadline for filing an objection (the “**Objection**”) to the proposed sale of De Minimis Assets shall be 4:00 p.m. (prevailing Eastern time) on the day that is 10 days from the date the Sale Notice is filed and served (the “**Sale Objection Deadline**”).

c. An Objection will be considered timely only if it is filed with the Court, One Bowling Green, New York, New York 10004-1408, and actually received by the following parties on or before the Sale Objection Deadline: (i) the U.S. Trustee, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors' postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and (b) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

d. Unless otherwise ordered by the Court, a reply to an Objection may be filed with the Court and served on or before 12:00 p.m. (prevailing Eastern Time) on the day that is at least two business days before the date of the applicable hearing.

e. If no Objections are timely received and filed by the Sale Objection Deadline, the Debtors may immediately sell the De Minimis Assets listed in the Sale Notice and take any actions that are necessary or desirable to close the transaction and obtain the sale proceeds. If an Objection is timely received and filed and cannot be settled by the Debtors and the objecting party, the De Minimis Asset that is the subject of the Objection will not be sold except upon order of the Court; *provided, however,* that any De Minimis Asset set forth in the Sale Notice that is not the subject of

an Objection may be immediately sold in accordance with the foregoing sentence; and it is further

ORDERED that if the Sale Price for the sale of a De Minimis Asset that the Debtors believe is arguably outside of the ordinary course of the Debtors' businesses is greater than \$5,000,000, the Debtors shall file a motion with the Court requesting approval of the sale pursuant to section 363 of the Bankruptcy Code, among other applicable provisions; and it is further

ORDERED that the Debtors shall be permitted to compensate any broker engaged by the Debtors in connection with any sale or attempted sale of De Minimis Assets; *provided, however*, that if an Objection to the payment of any broker's fees is timely received and filed by the Sale Objection Deadline, then the portion of such broker's fees to which the Objection is directed shall not be paid until such Objection is consensually settled or until the Court approves such payment; and it is further

ORDERED that the Procedures satisfy section 363(f) of the Bankruptcy Code and any De Minimis Asset sold pursuant to the Procedures shall be free and clear of all Liens; and it is further

ORDERED that any creditor asserting a Lien on any De Minimis Assets to be sold that receives the Sale Notice will have an opportunity to object to any sale in which they claim an interest. If a holder of a Lien receives the Sale Notice and does not object by the Sale Objection Deadline, the Lien holder will be deemed to have consented to the proposed sale and the property may then be sold free and clear of the holder's interests pursuant to section 363(f) with any such Liens to be, at the Debtors' sole discretion, either (i) satisfied from the proceeds of the sale or (ii) transferred and attached

to the net sale proceeds in the same order of priority that such liens had on the De Minimis Assets sold; and it is further

ORDERED that those who purchase De Minimis Assets in accordance with the Procedures shall be afforded the protections under section 363(m) of the Bankruptcy Code; and it is further

ORDERED that the 14-day stay set forth in Bankruptcy Rule 6004(h) is hereby waived in connection with all sales of De Minimis Assets pursuant to the Procedures; and it is further

ORDERED that if the estimated gross proceeds⁵ of the De Minimis Asset to be abandoned are less than or equal to \$2,000,000, the Debtors shall serve notice on the person or entity to whom the personal property is to be abandoned and any person or entity known to the Debtors as having an interest in the De Minimis Assets to be abandoned, including any known creditor asserting a Lien on the De Minimis Assets to be abandoned. Such notice shall be served five business days before such De Minimis Assets are abandoned; and it is further

ORDERED that if the estimated gross proceeds of the De Minimis Asset to be abandoned are greater than \$2,000,000 and less than or equal to \$5,000,000, the following Procedures shall be followed:

a. The Debtors shall file a notice with the Court, substantially in the form attached to the Motion as Exhibit C (the “**Abandonment Notice**”), specifying (i) the property to be abandoned, (ii) the reason for the abandonment, (iii) the parties

⁵ Solely for the purposes of the Procedures and the estimation of gross proceeds, entry into a series of related abandonments within any given thirty-day period to any given counterparty or its affiliates shall be deemed a single abandonment.

known to the Debtors as having an interest in the property to be abandoned and (iv) the entity to which the personal property is to be abandoned. The Debtors shall serve the Abandonment Notice on the following parties: (i) the U.S. Trustee, (ii) the attorneys for any official committee of unsecured creditors then appointed in these cases, (iii) any person or entity known to the Debtors as having an interest in the De Minimis Asset to be abandoned, including any known creditor asserting a lien on the De Minimis Asset to be abandoned and (iv) the entity to which the personal property is to be abandoned.

b. The deadline for the filing of an Objection to the proposed abandonment of De Minimis Assets shall be 4:00 p.m. (prevailing Eastern time) on the day that is 10 days from the date the Abandonment Notice is filed and served (the **“Abandonment Objection Deadline”**).

c. An Objection will be considered timely only if it is filed with the Court, One Bowling Green, New York, New York 10004-1408 and actually received by the following parties on or before the Abandonment Objection Deadline: (i) the U.S. Trustee, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors’ postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky and (b) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

d. Unless otherwise ordered by the Court, a reply to an Objection may be filed with the Court and served on or before 12:00 p.m. (prevailing Eastern Time) on the day that is at least two business days before the date of the applicable hearing.

e. If no Objections are timely received and filed by the Abandonment Objection Deadline, the Debtors may immediately abandon the De Minimis Asset listed in the Abandonment Notice and take any actions that are necessary or desirable to abandon the subject property. If an Objection is timely received and filed and cannot be resolved between the Debtors and the objecting party, the De Minimis Asset that is the subject of the Objection will not be abandoned except upon order of the Court; *provided, however*, that any De Minimis Asset set forth on the applicable Abandonment Notice and not the subject of an Objection may be immediately abandoned in accordance with the foregoing sentence; and it is further

ORDERED that if the estimated gross proceeds of the De Minimis Asset to be abandoned are greater than \$5,000,000, the Debtors shall file a motion with the Court requesting approval of the abandonment pursuant to section 554 of the Bankruptcy Code, among other provisions; and it is further

ORDERED that the Debtors shall not abandon De Minimis Assets pursuant to the Procedures where the abandonment would pose an environmental hazard or where a serious risk to the public is likely to result; and it is further

ORDERED that nothing herein shall impair the Debtors' ability to conduct their businesses in the ordinary course of business without seeking approval of this Court; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order approving the proposed debtor in possession financing, if and when entered, and this Order, the terms of the interim or final order approving the proposed debtor in possession financing, as applicable, shall govern; and it is further

ORDERED that nothing herein shall relieve the Debtors of any of their obligations under the Debtors' postpetition lending facility or enlarge the Debtors' rights with respect thereto; and it is further

ORDERED that this Court retains jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order; and it is further

ORDERED that the Procedures satisfy Bankruptcy Rules 2002 and 6007, and Local Bankruptcy Rule 6007-1; and it is further

ORDERED that the notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing the parties with a notice and an opportunity to object and be heard at a hearing.

Dated: New York, New York

_____, 2012

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Notice of Sale

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**NOTICE OF SALE OF CERTAIN OF THE DEBTORS' ASSETS
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that, on [], 2012, the United States Bankruptcy Court for the Southern District of New York (the "**Court**") entered the attached order (the "**Order**") granting approval of certain procedures (the "**Procedures**") for (i) the sale of certain assets ("**De Minimis Assets**"), free and clear of all liens, claims and encumbrances and (ii) the abandonment of certain De Minimis Assets [ECF. No. ____] in the chapter 11 cases of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**").

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Order, unless a written objection ("**Objection**") is filed with the Court and served in the manner provided for in the Order by _____, 2012, the De Minimis Assets listed on Appendix A attached hereto will be sold free and clear of all liens, claims, encumbrances or interests pursuant to, among other provisions, section 363 of title 11 of the United States Code, in accordance with the Order.

PLEASE TAKE FURTHER NOTICE that, if an Objection is timely filed and served in accordance with the Order, the Debtors and the objecting party will use good faith efforts to resolve the Objection. If the Debtors and the objecting party are unable to consensually resolve the Objection, the Debtors shall not proceed with the sale of the De Minimis Assets that are the subject of the Objection pursuant to the Procedures, but may seek Court approval of the proposed transaction.

Dated: New York, New York
[], 2012

By: _____
Marshall S. Huebner
Damian S. Schaible
Brian M. Resnick
Michelle M. McGreal

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 607-7983

*Proposed Counsel to the Debtors
and Debtors in Possession*

APPENDIX A

Assets(s) to be Sold	Name and Address of Purchaser¹	Proposed Purchase Price and Commissions to Third Parties	Location of Assets to be Sold	Location of Sale (if different than location of Assets)

¹ Required only if purchaser is an "affiliate", as that term is defined under section 101(2) of the Bankruptcy Code, of any of the Debtors.

EXHIBIT C

Notice of Abandonment

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION,, *et al.*,

Debtors.

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**NOTICE OF ABANDONMENT OF CERTAIN OF
THE DEBTORS' ASSETS PURSUANT TO
SECTION 554(a) OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that, on [], 2012, the United States Bankruptcy Court for the Southern District of New York (the “**Court**”) entered the attached order (the “**Order**”) granting approval of certain procedures (the “**Procedures**”) for (i) the sale of certain assets (“**De Minimis Assets**”), free and clear of all liens, claims and encumbrances and (ii) the abandonment of certain De Minimis Assets [ECF. No. ____] in the chapter 11 cases of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Order, unless a written objection (“**Objection**”) is filed with the Court and served in the manner required by the Order by _____, 2012, the De Minimis Assets listed on Appendix A attached hereto will be abandoned pursuant to, among other provisions, section 554(a) of the Bankruptcy Code, in accordance with the Order.

PLEASE TAKE FURTHER NOTICE that, if an Objection is timely filed and served in accordance with the Order, the Debtors and the objecting party will use good faith efforts to resolve the Objection. If the Debtors and the objecting party are unable to consensually resolve the Objection, the Debtors shall not proceed with the abandonment of the De Minimis Assets that are the subject of the Objection pursuant to the Procedures, but may seek Court approval of the proposed abandonment.

Dated: New York, New York
[], 2012

By: _____
Marshall S. Huebner
Damian S. Schaible
Brian M. Resnick
Michelle M. McGreal

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 607-7983

*Proposed Counsel to the Debtors
and Debtors in Possession*

