

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 607-7983
Marshall S. Huebner
Damian S. Schaible
Brian M. Resnick
Michelle M. McGreal

*Proposed Counsel to the Debtors
and Debtors in Possession*

**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 AN ORDER AUTHORIZING DEBTORS
TO FILE UNDER SEAL THE LETTER AGREEMENTS RELATING TO
DEBTORS' MOTION TO OBTAIN POSTPETITION FINANCING**

Patriot Coal Corporation (“**Patriot Coal**”) and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) respectfully submit this motion (the “**Motion**”) for an order, substantially in the form attached hereto as Exhibit A (the “**Proposed Order**”), (a) authorizing the Debtors to file under seal (i) the Syndication Letter (the “**Syndication Letter**”), dated July 9, 2012, by and among Patriot Coal and Citigroup Global Markets Inc. (“**CGMI**”), Barclays Bank PLC (“**Barclays**”) and Merrill Lynch, Pierce, Fenner & Smith Incorporated (“**MLPFS**”, and

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.

together with CGMI and Barclays, the “**Arrangers**”, and each individually, an “**Arranger**”), (ii) the Structure Fee Letter (the “**Structure Fee Letter**”), dated July 9, 2012, by and among Patriot Coal and CGMI and Barclays, (iii) the Fee Letter (the “**First Out Fee Letter**”), dated July 9, 2012, by and among Patriot Coal and CGMI, Barclays and MLPFS, and (iv) the Fee Letter (the “**Second Out Fee Letter**” and, together with the Syndication Letter, the Structure Fee Letter, and the First Out Fee Letter, the “**Letter Agreements**”), dated July 9, 2012, by and between Patriot Coal and MLPFS, in each case executed in connection with the proposed debtor-in-possession financing facility (the “**DIP Financing**”)² and setting forth fees and other costs associated with the DIP Financing, and (b) directing that the Letter Agreements shall remain under seal, confidential and not be made available to anyone without the consent of the Debtors and the Arrangers, except for (i) the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) and (ii) the counsel and financial advisors to any statutory committee appointed in these cases on a strictly confidential and “professionals’ eyes only” basis. In support of this Motion, the Debtors respectfully represent:

Background and Jurisdiction

1. On July 9, 2012 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and

² The Debtors are contemporaneously seeking authority from this Court to enter into the DIP Financing pursuant to their Motion for Entry of Interim and Final Orders (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(3), 364(d)(1) and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (II) Granting Adequate Protection to Pre-Petition Secured Lenders Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364 and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) (the “**DIP Financing Motion**”).

manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

3. 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, Senior Vice President and Chief Financial Officer of Patriot Coal Corporation, which is incorporated herein by reference (the “**Schroeder Declaration**”).

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

5. The statutory predicates for the relief requested herein are sections 105(a) and 107(b) of title 11 of the Bankruptcy Code and Bankruptcy Rule 9018.

Relief Requested

6. The Debtors seek to provide the Court with the Letter Agreements for the interim hearing regarding the DIP Financing (the “**Interim Hearing**”) to ensure a complete record. Pursuant to the Letter Agreements, the Debtors have agreed to keep the terms of the Letter Agreements confidential. By this Motion, the Debtors request entry of the Proposed Order, pursuant to sections 105(a) and 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, authorizing them to file the Letter Agreements under seal and directing that the Letter Agreements shall remain under seal and confidential and not be

made available to anyone without the consent of the Debtors and the Arrangers or further order from the Court (after notice and hearing), in each case, under appropriate confidentiality agreements reasonably satisfactory to the Debtors and the Arrangers. To ensure sufficient disclosure of the economic terms of the DIP Financing to the parties in interest, however, the Debtors have disclosed the aggregate fees to be paid in connection with the DIP Financing in the motion filed seeking approval of the DIP Financing, and have agreed to file the Letter Agreements in redacted form on the public docket. The Debtors will also provide unredacted copies of the Letter Agreements to (i) the U.S. Trustee on a strictly confidential basis and (ii) upon request, the counsel and financial advisors to any statutory committee appointed in these cases on a strictly confidential and “professionals’ eyes only” basis. On the basis of this disclosure, the U.S. Trustee has agreed to support the sealing of the Letter Agreements.

Basis for Relief

7. Under Section 105(a) of the Bankruptcy Code, bankruptcy courts have the inherent equitable power to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). In addition, section 107(b) gives bankruptcy courts the power to protect parties in interest from potentially harmful disclosures:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may—

- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or
- (2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).

8. A party in interest seeking protection under section 107(b) may obtain a protective order authorizing the filing of a document under seal pursuant to the procedures set forth in Bankruptcy Rule 9018, which provides:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . .

Fed. R. Bankr. P. 9018.

A. Section 107(b) Requires the Court to Protect Parties from Disclosing Sensitive Commercial Information

9. If a court determines that an interested party seeks to protect information that falls within either of the categories enumerated in section 107(b), “the court is required to protect [the requesting party] and has no discretion to deny the application.” *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27–28 (2d Cir. 1994) (under section 107(b)’s exception to the general rule that court records are open to public inspection, an interested party must only demonstrate that the information it wishes to seal is “confidential and commercial”); *see also In re Global Crossing Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (stating that the purpose of Bankruptcy Rule 9018(1) is to “protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury”). In contrast with Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate “good cause.” *Orion Pictures Corp.*, 21 F.3d at 28. Nor does it require a finding of “extraordinary circumstances or compelling need.” *Id.* at 27. On the contrary, if the

information qualifies as “commercial information” under section 107(b)(1), the Bankruptcy Code mandates that this information be protected from disclosure. *See Global Crossing*, 295 B.R. at 725. “[I]n the bankruptcy area . . . Congress has established a special rule for confidential . . . commercial information.” *Orion Pictures Corp.*, 21 F.3d at 27. Accordingly, once a court determines that commercial information is at risk of disclosure, it “is *required* to protect a requesting interested party and has no discretion to deny the application.” *Id.*

10. In *Orion*, the Second Circuit explained that an interested party seeking to protect “commercial information” need only show that the information it wishes to seal is “‘confidential’ and ‘commercial’ in nature.” *Id.* Moreover, commercial information need not rise to the level of trade secret to received protection under section 107(b)(1). *See id.* at 28 (holding that a license agreement authorizing a licensee “to reproduce, manufacture, distribute, and sell videocassettes” contained commercial information). Other courts in this district have followed the *Orion* court in defining “commercial information” as information that, if disclosed, would unfairly advantage the disclosing entity’s competitors by providing them with information as to the commercial operations of the entity seeking protection. *See In re Borders Group, Inc.*, No. 11-10614, 2011 Bankr. LEXIS 4691, at *9 (Bankr. S.D.N.Y. Dec. 7, 2011) (authorizing the debtors to redact the identities of key employees and vendors and confidential financial information from the filing copies of a share purchase agreement); *In re Barney’s, Inc.*, 201 B.R. 703, 708–09 (Bankr. S.D.N.Y. 1996) (denying the debtors’ motion to keep confidential the identity of a potential investor and the investor’s preliminary proposal letter, but noting that commercial information for the retailer “might include, without limitation, [the

debtors'] pricing formulae, short and long term marketing strategies and the terms of agreements with suppliers.”).

11. Moreover, in defining the scope of “commercial information,” courts in this district have relied on Rule 9018’s purpose of “protect[ing] business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury.” See *In re Global Crossing Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003). For example, one court has held that information qualified as “commercial information” where disclosure of this information would have a chilling effect on business negotiations. See *In re Lomas Fin. Corp.*, 90 Civ. 7827, 1991 U.S. Dist. LEXIS 1589, at *4–5 (S.D.N.Y. Feb. 11, 1991) (modifying and affirming a bankruptcy court order sealing confidential sections of a reorganization plan).

B. The Letter Agreements Contain “Commercial Information” That Warrants Confidential Treatment Under the Bankruptcy Code

12. The Letter Agreements contain commercially sensitive information that merits protection under section 107(b)(1) of the Bankruptcy Code. For example, the Letter Agreements contain information about the Arrangers’ methodologies for calculating fees that are critically sensitive and should remain confidential. In particular, as the syndication process continues, disclosing the market flex terms of the Letter Agreements would put great pressure on the Arrangers’ ability to market and syndicate the DIP Financing to the marketplace, potentially increasing the cost of the DIP Financing to the Debtors’ estates. Further, publicly disclosing the confidential information in the Letter Agreements would impede the Arrangers’ ability to syndicate such facilities, including debtor-in-possession facilities, in the future, significantly hampering their businesses.

13. As is customary in the finance industry, the Arrangers treat this information as highly sensitive and confidential. Such information is rarely disclosed to the public or made available to competitor financial institutions. Given the intense competition in the investment banking and lending industries, disclosure of the Letter Agreements could heavily constrain the ability of the DIP Agents, the Arrangers and their affiliates to negotiate their fees in future transactions, putting them at a strategic disadvantage relative to their competitors and causing them commercial injury. Further, because debtor-in-possession financings are only a small fraction of all syndicated financings arranged by the DIP Agents and the Arrangers, requiring them to disclose certain information concerning their fees in this context but not in others could have a “chilling effect” discouraging them and other competitor institutions from providing debtor-in-possession financings on terms favorable to debtors.

14. In addition, disclosure of the Letter Agreements would violate the Debtors’ agreements with the Arrangers, setting a discouraging precedent for the Debtors’ other potential creditors and trade partners. The Debtors believe that it is critical, especially at the outset of their chapter 11 cases, that they be able to assure their contractual counterparties that the confidential terms of their contracts will not face disclosure, so as not to further discourage such parties from contracting with the Debtors. The Debtors submit that providing the Letter Agreements to the U.S. Trustee and the advisors to any statutory committee later appointed, together with the disclosure on the record at the Interim Hearing of the aggregate fees to be paid in connection with the DIP Financing, will subject the Letter Agreements to sufficient scrutiny on the merits, while

at the same time minimizing any impact on the ongoing business objectives of the Debtors, the DIP Agents or the Arrangers.

15. Finally, the relief requested in this Motion is similar to relief granted in recent chapter 11 cases in this and other districts. *See, e.g., In re The Great Atl. & Pac. Tea Co.*, Case No. 10-24549 (RDD), Dkt. 3184 (Bankr. S.D.N.Y. Jan. 18, 2012) (Drain, J.) (authorizing debtors to file unredacted Letter Agreements under seal); *In re NewPage Corp.*, Case No. 11-12804 (KG), Dkt. No. 78 (Bankr. D. Del. Sept. 8, 2011) (Gross, J.) (authorizing debtors to file Letter Agreements with proposed debtor-in-possession lenders under seal); *In re Calpine Corp.*, Case No. 05-60200, Dkt. No. 3494 (Bankr. S.D.N.Y. Jan. 29, 2007) (Lifland, J.) (authorizing debtors to file copy of fee letter underlying proposed replacement debtor-in-possession financing facility under seal); *In re Adelpia Communications Corp.*, Case No. 02-41729, Dkt. No. 4260 (Bankr. S.D.N.Y. Mar. 24, 2004) (Gerber, J.) (authorizing debtors to file a fee letter under seal in connection with debtors' motion for approval of an exit financing arrangement); *see also In re Coach Am Group Holdings Corp.*, Case No. 12-10010, Dkt. No. 59 (Bankr. D. Del. Jan. 5, 2012) (Gross, J.) (authorizing, over the U.S. Trustee's objection, debtors to file under seal the Letter Agreements underlying the proposed debtor-in-possession financing); *In re LandSource Communities Dev. LLC*, Case No. 08-11111, Dkt. No. 306 ¶ 25 (Bankr. D. Del. Jul. 21, 2008) (Carey, J.) (authorizing debtors to keep confidential the fee letter underlying proposed debtor-in-possession financing under Bankruptcy Rule 9018); *In re WCI Communities, Inc.*, Case No. 08-11643, Dkt. No. 411 (Bankr. D. Del. Sept. 23, 2008) (Carey, J.) (authorizing, over the U.S. Trustee's objection, the debtors to file under seal the fee letter underlying the proposed debtor-in-possession financing

facility). Other courts in this district have allowed limited and confidential fee letter disclosure, similar to the relief sought here, without motions to seal having been filed. *See In re Borders Group, Inc.*, Case No. 11-10614 (Bankr. S.D.N.Y. Feb. 16, 2011) (final order (Dkt. No. 404) approving debtors' debtor-in-possession financing motion (Dkt. No. 27 at 9 & n.5) that proposed to keep the Letter Agreements confidential, providing them only to the court, the U.S. Trustee, and the professionals of any official creditors' committee); *In re Delphi Corp.*, Case No. 05-44481 (Bankr. S.D.N.Y. Oct. 8, 2005) (order (Dkt. No. 10957) approving debtors' debtor-in-possession financing extension motion (Dkt. No. 10787 ¶ 23 & n.14) that proposed to keep the fee letter confidential, providing it only to the court and on request to counsel to the statutory committees and the U.S. Trustee).

Notice

16. No trustee, examiner or creditors' committee has been appointed in these chapter 11 cases. The Debtors have served notice of this Motion on (a) the Office of the United States Trustee for the Southern District of New York; (b) those creditors holding the 15 largest secured claims against the Debtors' estates on a consolidated basis; (c) those creditors holding the 50 largest unsecured claims against the Debtors' estates on a consolidated basis; (d) attorneys for the administrative agents for the Debtors' proposed postpetition lenders; (e) the Internal Revenue Service, (f) the Securities and Exchange Commission, (g) the United States Environmental Protection Agency and (h) the United States Attorney General for the Southern District of New York.

No Previous Request

17. 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.

New York, New York
Dated: July 9, 2012

By: /s/ Brian M. Resnick
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*

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. Patriot Ventures LLC
75. PCX Enterprises, Inc.
76. Pine Ridge Coal Company, LLC
77. Pond Creek Land Resources, LLC
78. Pond Fork Processing LLC
79. Remington Holdings LLC
80. Remington II LLC
81. Remington LLC
82. Rivers Edge Mining, Inc.
83. Robin Land Company, LLC
84. Sentry Mining, LLC
85. Snowberry Land Company
86. Speed Mining LLC
87. Sterling Smokeless Coal Company, LLC
88. TC Sales Company, LLC
89. The Presidents Energy Company LLC
90. Thunderhill Coal LLC
91. Trout Coal Holdings, LLC
92. Union County Coal Co., LLC
93. Viper LLC
94. Weatherby Processing LLC
95. Wildcat Energy LLC
96. Wildcat, LLC
97. Will Scarlet Properties LLC
98. Winchester LLC
99. Winifrede Dock Limited Liability Company

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 AUTHORIZING DEBTORS' TO FILE UNDER SEAL THE
LETTER AGREEMENTS RELATING TO DEBTORS' MOTION TO OBTAIN
POSTPETITION FINANCING**

Upon the motion (the "**Motion**")² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") for entry of an order authorizing the Debtors to file under seal the Letter Agreements pursuant to sections 105(a) and 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, as more fully described in the Motion; and upon consideration of the Declarations of Mark N. Schroeder, Senior Vice President and Chief Financial Officer of Patriot Coal Corporation, and of Paul P. Huffard, Senior Managing Director of Blackstone Advisory Services L.P., filed in support of the Debtors' first-day pleadings; and the Court having jurisdiction to consider the Motion and 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

¹ The Debtors are the entities listed on Schedule 1 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 such term in the Motion.

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); and due and proper notice of the Motion having been provided to (a) the Office of the United States Trustee for the Southern District of New York; (b) those creditors holding the 15 largest secured claims against the Debtors' estates on a consolidated basis; (c) those creditors holding the 50 largest unsecured claims against the Debtors' estates on a consolidated basis; (d) attorneys for the administrative agents for the Debtors' proposed postpetition lenders; (e) the Internal Revenue Service, (f) the Securities and Exchange Commission, (g) the United States Environmental Protection Agency and (h) the United States Attorney General for the Southern District of New York; 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 hereby

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, the Debtors are authorized to file the Letter Agreements under seal; and it is further

ORDERED that the Letter Agreements shall remain under seal and confidential and shall not be made available to anyone without the consent of the Debtors, the DIP Agents and the Arrangers or without further order from this Court (after notice and a hearing), in each case, under appropriate confidentiality agreements reasonably satisfactory to the Debtors and the Arrangers; *provided, however*, that the Debtors will provide unredacted copies of the Letter Agreements to (i) the U.S. Trustee on a strictly confidential basis and (ii) upon request, the counsel and financial advisors to any statutory committee appointed in these cases on a strictly confidential and “professionals’ eyes only” basis; and it is further

ORDERED that any pleadings filed in these chapter 11 cases that reference or disclose any information contained in the Letter Agreements (other than the information contained in the motion to approve the DIP Financing and the exhibits thereto) shall be filed under seal and served only on those parties authorized to receive the Letter Agreements in accordance with this Order; and it is further

ORDERED that notice of this Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion; and it is further

ORDERED that this Court shall retain jurisdiction to hear and decide any dispute related to or arising from this Order.

New York, New York

Dated: _____, 2012

UNITED STATES BANKRUPTCY JUDGE