

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

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In re:	:	Chapter 11
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WALTER ENERGY, INC., <u>et al.</u> ,	:	Case No. 15-02741-TOM11
	:	
Debtors. <sup>1</sup>	:	Jointly Administered
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**ORDER (I) ESTABLISHING BIDDING PROCEDURES FOR THE SALE(S) OF ALL, OR SUBSTANTIALLY ALL, OF THE DEBTORS’ ASSETS; (II) APPROVING BID PROTECTIONS; (III) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (IV) APPROVING FORM AND MANNER OF THE SALE, CURE AND OTHER NOTICES; (V) SCHEDULING AN AUCTION AND A HEARING TO CONSIDER THE APPROVAL OF THE SALE(S); AND (VI) GRANTING CERTAIN RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors (A) for an order (this “**Order**” or the “**Bidding Procedures Order**”): (I) approving the proposed auction and bidding procedures, which are attached as **Exhibit A** hereto (the “**Bidding Procedures**”), to be employed in connection with the proposed sale(s) (the “**Sale(s)**”) of one or more categories of the Debtors’ assets (each a “**Lot**” and collectively, the “**Lots**”), which Lots are identified in an exhibit to the Bidding Procedures and comprise all, or substantially all, of the Debtors’ assets (collectively, the “**Subject Assets**”); (II) approving Bid Protections pursuant to the terms of that

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Motion, the Bidding Procedures (as defined below) or the Stalking Horse Agreement (as defined below), as applicable.



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certain stalking horse asset purchase agreement (including all exhibits, schedules and ancillary agreements related thereto, and as amended and in effect, the “**Stalking Horse Agreement**”) by and among Walter Energy, Inc. and its debtor subsidiaries (collectively, the “**Sellers**”) and Coal Acquisition LLC (the “**Stalking Horse Purchaser**” or “**Buyer**”), dated as of November 5, 2015; (III) establishing procedures for the assumption and assignment of executory contracts and unexpired leases; (IV) approving the form and manner of notice of the Sale(s), the notice of assumption and assignment of executory contracts and unexpired leases, including the form and manner of notice of proposed cure amounts (the “**Cure Notice**”) and the other notices set forth herein; (V) scheduling an auction (the “**Auction**”) and a hearing (the “**Sale Hearing**”) to consider approval of the Sale(s) and (VI) granting related relief (collectively, (A)(I) through (VI) above, the “**Bidding Procedures Relief**”); and (B) for order(s) (the “**Sale Order(s)**”) authorizing (I) the Sale(s) of one or more of the Lots to the bidder(s) with the highest or otherwise best bid(s) (each, a “**Successful Bidder**”) pursuant to the Stalking Horse Agreement, Short Form APA(s) and/or Modified Asset Purchase Agreement(s), in each case free and clear of all claims, liens and encumbrances as provided therein; and (II) the Debtors’ assumption and assignment of the applicable executory contracts and/or unexpired leases to the Successful Bidder(s) for the relevant Lot(s); and the Court having considered that portion of the Motion seeking the Bidding Procedures Relief, and the arguments of counsel made and the evidence adduced, at the hearing on that portion of the Motion (the “**Bidding Procedures Hearing**”); and due and sufficient notice of the Bidding Procedures Hearing and the relief sought therein having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the Bidding Procedures Relief requested in the Motion is

in the best interests of the Debtors, their estates, their creditors and other parties in interest; and after due deliberation thereon and good and sufficient cause appearing therefor, it is hereby,

**FOUND, CONCLUDED AND DETERMINED THAT:<sup>3</sup>**

A. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363, 364, 365, 503 and Bankruptcy Rules 2002, 6004, 6006 and 9014.

B. The relief granted herein is in the best interests of the Debtors, their estates and creditors, and other parties in interest.

C. The Debtors have articulated good and sufficient business reasons for the Court to (i) approve the Bidding Procedures, Bid Protections, the Assumption and Assignment Procedures, the form and manner of the Sale Notice, the Cure Notice and the other notices of the Motion, the Auction and the Sale Hearing as set forth herein, (ii) set the date for the Auction, the Sale Hearing and the other dates set forth herein and (iii) grant the relief requested in the Motion as provided herein.

D. Due, sufficient and adequate notice of the Bidding Procedures Hearing and the relief granted in this Order has been given in light of the circumstances and the nature of the relief requested, and no other or further notice thereof is required. The Debtors' notice of the Motion and the relief requested in the Motion for which approval was sought at the Bidding Procedures Hearing is appropriate and reasonably calculated to provide all interested parties with

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<sup>3</sup> The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

timely and proper notice under Bankruptcy Rules 2002, 4001, 6004 and 6006, and no other or further notice of, or hearing on, this Order and that portion of the Motion being approved hereby is required.

E. The Debtors' proposed Sale Notice, Cure Notice and other notices contemplated hereunder with respect to the Sale(s), the Auction, the Assumption and Assignment Procedures, and the Sale Hearing are appropriate and reasonably calculated to provide all interested parties with timely and proper notice thereof and no further notice of each is necessary or required.

F. The Bidding Procedures, substantially in the form attached hereto as **Exhibit A**, and incorporated herein by reference as if fully set forth herein, and the Bid Protections are fair, reasonable and appropriate, were negotiated in good faith by the Debtors and the Stalking Horse Purchaser and represent the best method for maximizing the value of the Debtors' estates in connection with the Sale(s).

G. The Bid Protections, to the extent payable under the Stalking Horse Agreement, (i) shall be deemed an actual and necessary cost of preserving the Debtors' estates within the meaning of Bankruptcy Code section 503(b), (ii) are of substantial benefit to the Debtors' estates, (iii) are reasonable and appropriate, including in light of the size and nature of the transactions and the efforts that have been and will be expended by the Stalking Horse Purchaser, (iv) have been negotiated by the parties and their respective advisors at arm's-length and in good faith and (v) are necessary to ensure that the Stalking Horse Purchaser will continue to pursue the proposed Sale of the Acquired Assets. The Bid Protections are material inducements for, and a condition of, the Stalking Horse Purchaser's entry into the Stalking Horse Agreement. The Stalking Horse Purchaser is unwilling to commit to purchase the Acquired

Assets under the terms of the Stalking Horse Agreement unless the Stalking Horse Purchaser receives the Bid Protections.

H. The Assumption and Assignment Procedures are reasonable and appropriate.

**IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:**

1. Those portions of the Motion seeking approval of the Bidding Procedures Relief are GRANTED.

2. Any objection to the portions of the Motion seeking approval of the Bidding Procedures Relief or any other relief granted in this Order or any previously entered Orders, to the extent not resolved, waived or withdrawn, and all reservations of rights included therein with respect to the Bidding Procedures Relief, is hereby overruled and denied on the merits; provided, however, that for the avoidance of doubt, any substantive objections to the portion of the Motion not otherwise approved or overruled in this or any previously entered Orders, including but not limited to any objection to the Sale Order(s) and/or Sale of the Subject Assets pursuant to the Stalking Horse Agreement, Short Form APA(s) and/or Modified Asset Purchase Agreement(s), are fully reserved and may be raised again by any party as Sale Objections. Nothing in this Order shall be deemed to alter or modify the Cash Collateral Orders and nothing herein shall prejudice any parties' rights, claims or defenses with respect to any motion to establish the amount of the First Lien Creditors' adequate protection claims.

3. Nothing in this Order or the Bidding Procedures, including but not limited to approval of the Bid Protections to the Stalking Horse Purchaser or the form of the Stalking Horse Agreement, shall be construed as or deemed a finding that the Subject Assets can be sold free and clear of any successorship obligations under (i) any collective bargaining agreement to

which a Debtor is a party, or (ii) state, federal, or other applicable non-bankruptcy law, and all parties' rights with respect to that issue are fully reserved.

4. Debtors shall as soon hereafter as practicable, but in no event later than ten (10) Business Days after the entry of this Order, provide all surety bond issuers, the applicable obligees under such surety bonds, and each Consultation Party with a list containing (a) a reasonably specific identification of the assets to be transferred pursuant to the Stalking Horse Agreement, which shall include any real property that is subject to a coal mining permit or other permit, the permit number, and the surety issuing the applicable surety bond in respect of such coal mining or other permit, and (b) a reasonably specific identification of the assets comprising the Lots described in Exhibit A to the Bidding Procedures, which shall include any real property that is subject to a coal mining permit or other permit, the permit number, and the surety issuing the applicable surety bond in respect of such coal mining or other permit.

5. No provision of this Order shall be deemed to express, imply or otherwise provide either (a) that any surety has consented to the substitution of any principal on any outstanding surety bond, or (b) that any surety has consented to its bonds assuring any payment or performance obligation or any operation or activity of any party, including, without limitation, any buyer of any assets to be transferred pursuant to the Stalking Horse Agreement or any other sale contemplated under this Order, the Bidding Procedures or otherwise, other than the principal or principals named in such surety bond.

6. No provision of this Order shall be deemed to alter, modify or prejudice any rights, remedies or defenses that any surety has or may have under applicable bankruptcy and non-bankruptcy law under any indemnity agreements, surety bonds or related agreements or any letters of credit relating thereto.

7. Nothing in this Order, the Stalking Horse Agreement, or any other purchase agreement shall relieve or excuse the Debtors, the Stalking Horse Purchaser, or any other party from complying with any and all applicable federal securities laws, rules, and regulations.

8. The form of the Stalking Horse Agreement<sup>4</sup> (which may be downloaded at <http://www.kccllc.net/walterenergy> or obtained from counsel to the Debtors upon written request), is hereby approved and is appropriate and reasonably calculated to enable the Debtors and other parties in interest to easily compare and contrast the differing terms of the bids presented at the Auction.

#### **Bid Procedures**

9. The Bidding Procedures in the form attached hereto as **Exhibit A** and incorporated herein by reference as if fully set forth in this Order are hereby approved. The Debtors are authorized to take any and all actions necessary or appropriate to implement the Bidding Procedures. The failure to specifically include or reference any particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such procedures, it being the intent of this Court that the Bidding Procedures be authorized and approved in their entirety.

#### **The Bid Deadline**

10. As further described in the Bidding Procedures, a potential Bidder who desires to make a Bid for one or more Lots shall deliver its Bid for such Lot(s) that satisfies the bidding requirements set forth in the Bidding Procedures to: (a) the Debtors, 3000 Riverchase

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<sup>4</sup> As provided in the Bidding Procedures, the Debtors will post in the virtual data room one or more forms of the asset purchase agreement (each a "**Short Form APA**") that will be substantially similar to the Stalking Horse Agreement, but with modifications appropriate for the purchase of such applicable Lot(s) without the other Subject Assets.

Galleria, Suite 1700, Birmingham, Alabama 35244-2359, Attention: Earl Doppelt (earl.doppelt@walterenergy.com); (b) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley A. Cornish (kcornish@paulweiss.com) and Stephen J. Shimshak ([sshimshak@paulweiss.com](mailto:sshimshak@paulweiss.com)), and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Patrick J. Darby (pdarby@babco.com); (c) financial advisor to the Debtors, PJT Partners Inc., 280 Park Avenue, New York, New York 10017, Attention: Adam Schlesinger ([schlesinger@pjtpartners.com](mailto:schlesinger@pjtpartners.com)) and Kerry Greer ([greer@pjtpartners.com](mailto:greer@pjtpartners.com)); (d) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attention: Ira Dizengoff (idizengoff@akingump.com) and Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Attention: James Savin (jsavin@akingump.com); (e) financial advisor to the Steering Committee, Lazard Frères & Co. LLC, 190 South LaSalle Street, Chicago, IL 60603, Attention: Tyler Cowan (tyler.cowan@lazard.com); and (f) counsel to the UCC, Morrison & Foerster LLP, 250 West 55<sup>th</sup> Street, New York, New York 10019, Attention: Brett H. Miller (brettmiller@mofo.com), Lorenzo Marinuzzi (lmarinuzzi@mofo.com) and Jennifer L. Marines ([jmarines@mofo.com](mailto:jmarines@mofo.com)), so as to be received by no later than **12:00 p.m. (prevailing Central Time) on January 4, 2016** (the “**Bid Deadline**”). The Debtors will forthwith provide copies of each Bid received to counsel for each Consultation Party who has executed a confidentiality agreement.

**Notices of Sale(s), Bidding Procedures, Bid Protections and the Sale Hearing**

11. The notices described below are hereby approved, and service or publication thereof (as applicable) as set forth below satisfies the requirements of Rule 2002 of

the Federal Rules of Bankruptcy Procedure and constitutes proper, timely, adequate and sufficient notice of the Sale(s), the Bidding Procedures, the Bid Protections and the Sale Hearing, and no other or further notice shall be required.

12. Within three (3) Business Days after the entry of this Order, or as soon thereafter as practicable (the “**Mailing Date**”), the Debtors (or their agents) shall serve a copy of the Sale Notice (as defined below), this Order, and the Bidding Procedures by first-class mail, postage prepaid, or by email, where available, upon (a) all entities known to have expressed a *bona fide* interest in purchasing any of the Subject Assets at any time and such other parties identified by the Consultation Parties prior to the date hereof; (b) all entities known to have asserted any lien, claim or encumbrance in or upon any of the Subject Assets; (c) all federal, state and local environmental, regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by the Motion; (d) the Bankruptcy Administrator; (e) counsel to the Credit Agreement Agent; (f) counsel to each of the indenture trustees for each of the Debtors’ outstanding bond issuances; (g) counsel to the Steering Committee; (h) the Internal Revenue Service; (i) the Securities and Exchange Commission; (j) the U.S. Environmental Protection Agency; (k) the U.S. Attorney for the Northern District of Alabama; (l) counsel to the UMWA; (m) counsel to the USW; (n) counsel to the UCC; (o) counsel to the Section 1114 Committee; (p) any surety bond issuers; and (q) all persons and entities that have filed a request for service of filings in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

13. On the Mailing Date, or as soon thereafter as practicable, the Debtors (or their agents) shall serve by first-class mail, postage prepaid, the notice of the Sale(s), substantially in the form attached hereto as **Exhibit B** (the “**Sale Notice**”), upon all other known

creditors of the Debtors and all counterparties to the Debtors' executory contracts and unexpired leases.

14. The Debtors shall file a Form 8-K with the United States Securities and Exchange Commission promptly after entry of this Order to provide notice to shareholders of the Order, the Sale(s), the Bidding Procedures, the Bid Protections and the Sale Hearing.

15. The Debtors shall publish a notice, substantially in the form of the Sale Notice, on one occasion, in (i) *The Wall Street Journal*, National Edition, and (ii) a local newspaper publication, on the Mailing Date or as soon as practicable thereafter. Such publication notice shall be deemed sufficient and proper notice of the Sale(s) to any other interested parties whose identities are unknown to the Debtors.

16. The Sale Hearing to approve the Sale(s) shall be held on **January 6, 2016 at 9:00 a.m. (prevailing Central Time)**, subject to extension or adjournment as provided herein or in the Bidding Procedures, at the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, 1800 Fifth Avenue North Birmingham, Alabama 35203, before the Honorable Tamara O. Mitchell. The Sale Hearing may be adjourned or bifurcated if there is more than one Successful Bidder for the Subject Assets.

17. Objections, if any, to the relief sought in the Sale Order ("**Sale** **Objection(s)**")<sup>5</sup> shall be in writing, filed with the Clerk of this Court (the "**Clerk**"), 1800 Fifth Avenue North Birmingham, Alabama 35203, together with proof of service, and served so as to be received by: (a) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley A. Cornish (kcornish@paulweiss.com) and Stephen J. Shimshak (sshimshak@paulweiss.com), and Bradley

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<sup>5</sup> Procedures for filing objections to the assumption and assignment of relevant executory contracts and unexpired leases are addressed below.

Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Patrick J. Darby (pdarby@babco.com ); (b) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attention: Ira Dizengoff (idizengoff@akingump.com) and Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Attention: James Savin (jsavin@akingump.com); (c) counsel to the UCC, Morrison & Foerster LLP, 250 West 55<sup>th</sup> Street, New York, New York 10019, Attention: Brett H. Miller (brettmiller@mofo.com), Lorenzo Marinuzzi (lmarinuzzi@mofo.com), and Jennifer L. Marines (jmarines@mofo.com); (d) counsel to the Section 1114 Committee, Jenner & Block LLP, 353 North Clark Street, Chicago, IL 60654, Attention: Catherine Steege (csteege@jenner.com) and Melissa Root (mroot@jenner.com); and (e) the Bankruptcy Administrator, 1800 5th Avenue North, Birmingham, Alabama 35203, Attention: Tom Corbett (Thomas\_Corbett@alnb.uscourts.gov) (collectively, the “**Notice Parties**”), on or before **December 17, 2015 at 4:00 p.m. (prevailing Central Time)**; provided, however, that objections to the conduct of the Auction or selection of the Successful Bid(s) or Back-Up Bids(s) (the “**Supplement**”) shall be in writing, filed with the Clerk, together with proof of service, and served so as to be received by the Notice Parties on or before **thirty (30) minutes prior to the commencement of the Sale Hearing**.

18. Failure to file and serve a Sale Objection or Supplement as aforesaid shall be deemed to be consent to the Sale(s) for purposes of Bankruptcy Code section 363(f).

19. The Sale Hearing may be adjourned by the Debtors, in consultation with the Consultation Parties, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, or by filing a notice on the docket of the Debtors’ Chapter 11 Cases.

### **The Auction**

20. The Debtors are authorized to conduct an auction (the “**Auction**”) with respect to the Subject Assets. The Auction shall take place on **January 5, 2016 at 10:00 a.m. (prevailing Central Time)** at the offices of Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, or such other place and time as the Debtors shall notify all Qualified Bidders, the Consultation Parties and each of their respective counsel and advisors. The Debtors are authorized, subject to the terms of this Order, to take actions reasonably necessary, in the discretion of the Debtors, to conduct and implement the Auction.

21. Only the Debtors, the Consultation Parties, the Stalking Horse Purchaser and any other Qualified Bidder, in each case, along with their respective representatives and counsel, may attend the Auction (such attendance to be in person) and only the Credit Agreement Agent, the Indenture Trustee, the Stalking Horse Purchaser and such other Qualified Bidder(s) will be entitled to make any Bids at the Auction; provided, however, that any creditor or other indenture trustee may attend (but, other than the Credit Agreement Agent and the Indenture Trustee, may not participate in) the Auction if it provides the Debtors written notice of its intention to attend the Auction on or before the Bid Deadline. Such written notice must be sent to counsel for the Debtors via electronic mail to Claudia R. Tobler (ctobler@paulweiss.com) and Ann K. Young (ayoung@paulweiss.com). The Debtors and their professionals shall direct and preside over the Auction and the Auction shall be transcribed.

22. The Stalking Horse Purchaser (in its capacity as a Qualified Bidder) and each other Qualified Bidder participating in the Auction must confirm that it has (a) not engaged in any collusion with respect to the bidding or Sale(s) of any of the Subject Assets, (b) reviewed, understands and accepts the Bidding Procedures and (c) consented to the core jurisdiction of this

Court and to the entry of a final order by this Court on any matter related to this Order, the Sale(s) or the Auction if it is determined that this Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

23. Subject to the rights of parties in interest to (i) challenge the Sale(s) or the sale process, (ii) challenge the Debtors' decisions with respect to the sale process, (iii) argue that such decisions are not governed by the "business judgment" standard or (iv) such other rights as such parties may have under applicable law, the Debtors may, after consultation with the Consultation Parties, (a) determine, in their business judgment, pursuant to the Bidding Procedures, which Qualified Bid is the highest or best proposal for the applicable Lot(s) and which is the next highest or best proposal for such Lot(s) and (b) reject any bid that, in the Debtors' business judgment, is (x) inadequate or insufficient, (y) not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules or the Bidding Procedures or (z) contrary to the best interests of the Debtors and their estates, creditors, interest holders or other parties-in-interest.

24. Notwithstanding anything to the contrary herein, and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse Purchaser shall be considered a Qualified Bidder.

25. Pursuant to Bankruptcy Code section 363(k), the Stalking Horse Purchaser may submit subsequent and increased credit bids at the Auction in compliance with the Bidding Procedures.

#### **The Stalking Horse Agreement and Bid Protections**

26. Any obligations of the Debtors set forth in the Stalking Horse Agreement that are intended to be performed prior to the Sale Hearing and/or entry of the Sale Order are authorized as set forth herein.

27. The Bid Protections, to the extent payable under the Stalking Horse Agreement, are granted.

28. Pursuant to Bankruptcy Code sections 105, 363, 364 and 503, the Debtors are hereby authorized to pay the Bid Protections pursuant to and subject to the terms and conditions set forth in the Stalking Horse Agreement.

29. Upon entry of this Order, the Bid Protections shall constitute a superpriority administrative expense of the Debtors with priority over any and all administrative expenses of any kind, including those specified in Bankruptcy Code sections 503(b) or 507(b), but shall be *pari passu* with the First Lien Adequate Protection Obligations and subordinate only to the Carve-Out.

30. In accordance with section 11.2 of the Stalking Horse Agreement, Sellers shall pay to the Stalking Horse Purchaser, in cash, by wire transfer of immediately available funds, an amount equal to the Expense Reimbursement (less any amount of the Expense Reimbursement to the extent already paid in respect of the Blue Creek Assets pursuant to section 7.8(b)(ii) of the Stalking Horse Agreement) as a result of either (i) consummation of an Alternative Transaction or, if earlier, upon the date that is sixty (60) days following Court approval of an Alternative Transaction thereof, in either case, following termination of the Stalking Horse Agreement pursuant to section 11.1(b)(iii) of the Stalking Horse Agreement; (ii) termination of the Stalking Horse Agreement (other than a termination pursuant to section 11.1(b)(i) or 11.1(b)(iii) of the Stalking Horse Agreement) if, as of such termination, any Seller (but not the Stalking Horse Purchaser) was in breach of any of its representations, warranties, covenants or other agreements so as to cause any of the conditions set forth in article 9 of the Stalking Horse Agreement not to be satisfied; or (iii) if the Stalking Horse Agreement is

terminated (other than as set forth in clause (i) or (ii) above or as a result of the Stalking Horse Purchaser's breach of any of its representations, warranties, covenants or other agreements so as to cause any of the conditions set forth in article 10 of the Stalking Horse Agreement not to be satisfied) and the Sellers consummate an Alternative Transaction within nine (9) months of such termination. In addition, pursuant to section 7.8(b)(ii) of the Stalking Horse Agreement, the Sellers shall promptly pay, in cash, the fees and expenses incurred by the Stalking Horse Purchaser, the Steering Committee, the Credit Agreement Agent, and the Indenture Trustee, including reasonable attorney fees (that are not otherwise paid by the Sellers under the Cash Collateral Orders), with regard to the Blue Creek Assets in an aggregate amount up to \$250,000 plus a break-up fee payable to the Stalking Horse Purchaser of \$1,500,000 if the Blue Creek Assets are sold to a Successful Bidder, other than the Stalking Horse Purchaser or a Buyer Designee.

31. The Debtors confirm that it is critical to the process of maximizing the value, and arranging an orderly sale, of the Acquired Assets to proceed by selecting the Stalking Horse Purchaser to enter into the Stalking Horse Agreement; without the Stalking Horse Purchaser having committed considerable time and expense in connection with the Sale of the Acquired Assets, the Debtors would potentially realize a lower price for such assets; and, therefore, the contributions of the Stalking Horse Purchaser to the process have indisputably provided a substantial benefit to the Debtors and their estates and creditors.

32. The Bid Protections shall be the sole remedy of the Stalking Horse Purchaser if the Stalking Horse Agreement is terminated under circumstances where the Bid Protections are payable.

### Assumption and Assignment Procedures

33. The Assumption and Assignment Procedures as set forth in the Motion are hereby approved and made part of this Order as if fully set forth herein. The Assumption and Assignment Procedures are appropriate and fair to all non-Debtor counterparties and comply in all respects with the Bankruptcy Code.

34. The decision to assume and assign the applicable assumed and assigned contracts and/or leases to the Successful Bidder(s) is subject to Court approval and the consummation of a Sale(s) of the applicable Subject Assets. Accordingly, absent closing of such Sale(s), the applicable assumed and assigned contracts and/or leases shall not be deemed assumed and/or assigned and shall, in all respects, be subject to further administration under the Bankruptcy Code.

*a. Cure Notice*

35. The Cure Notice, substantially in the form attached hereto as Exhibit C, is (i) reasonably calculated to provide sufficient effective notice to all non-Debtor counterparties to assumed and assigned contracts or leases and any other affected parties of the Debtors' intent to assume and assign some or all of such contracts or leases and to afford the non-Debtor counterparty to each such contract or lease the opportunity to exercise any rights affected by the Motion pursuant to Bankruptcy Rules 2002, 6004 and 6006, and (ii) hereby approved.

36. The inclusion of a contract on a Cure Notice shall not constitute or be deemed a determination or admission by the Debtors, the Stalking Horse Purchaser, any Successful Bidder or any other party in interest that such document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code or that such contract or lease will be assumed in connection with the Sale(s) of the Subject Assets. The Debtors reserve

all of their rights, claims and causes of action with respect to the contracts or leases listed on the Cure Notice.

37. Within five (5) Business Days after the entry of this Order, or as soon thereafter as is practicable, the Debtors shall file with this Court and serve the Cure Notice on each counterparty to an executory contract or unexpired lease related to the Subject Assets, which Cure Notice shall: (i) state the cure amounts, if any, that the Debtors believe are necessary to assume such contracts or leases pursuant to Bankruptcy Code section 365 (the “**Cure Amount**”); (ii) notify the non-Debtor counterparty that such party’s contract or lease may be assumed and assigned to a Successful Bidder of one or more of the relevant Subject Assets at the conclusion of the Auction; (iii) state the date of the Sale Hearing and that objections to any Cure Amount or to assumption and assignment will be heard at the Sale Hearing, or at a later hearing, as determined by the Debtors; and (iv) state the deadline by which the non-Debtor counterparty shall file an objection to the Cure Amount(s) or to the assumption and assignment of the applicable contract(s) and/or lease(s).

38. Any objection to the Cure Amount or the assumption and assignment of the applicable contract(s) and/or lease(s) must be filed with the Clerk and served on the Notice Parties so as to be received on or before **December 17, 2015 at 4:00 p.m. (prevailing Central Time)** (the “**Cure Objection Deadline**”). Any such objection must also state (i) the basis for such objection and (ii) with specificity what Cure Amount(s) the non-Debtor counterparty to the relevant executory contract(s) or unexpired lease(s) believes is required (in all cases with appropriate documentation in support thereof).

39. Any objection solely to the Cure Amount(s) may not prevent or delay the Debtors’ assumption and assignment of assumed and assigned contract(s) or lease(s). If a party

objects solely to Cure Amount(s), the Debtors may, with the consent of the relevant Successful Bidder(s), hold the claimed Cure Amount(s) in reserve pending further order of the Court or mutual agreement of the parties. So long as the Cure Amount(s) are held in reserve, and there are no other unresolved objections to assumption and assignment of the applicable assumed and assigned contract(s) or lease(s), the Debtors can, without further delay, assume and assign such contract(s) or lease(s) to the applicable Successful Bidder. Under such circumstances, the objecting non-Debtor counterparty's recourse is limited to the funds held in reserve.

40. If no objection to the Cure Amount(s) is timely received, the Cure Amount(s) set forth in the Cure Notice shall be controlling notwithstanding anything to the contrary in any assigned contract(s) or lease(s) or other document(s) as of the date of the Cure Notice.

***b. Designation of Contracts/Leases and Adequate Assurance of Future Performance***

41. On or before **January 4, 2016 at 12:00 p.m. (prevailing Central Time)**, as further described in the Stalking Horse Agreement, the Stalking Horse Purchaser will provide to the Debtors a list of those executory contracts and unexpired leases that the Stalking Horse Purchaser elects to have assumed and assigned (the "**Stalking Horse Purchaser Designated Contracts**") to the Stalking Horse Purchaser at Closing pursuant to Bankruptcy Code section 365, subject to the Stalking Horse Purchaser's right to add or delete executory contracts or unexpired leases in accordance with section 2.5(a) of the Stalking Horse Agreement.

42. On or before **January 5, 2016 at 10:00 a.m. (prevailing Central Time)**, the Debtors shall post on the website for the Chapter 11 Cases, <http://www.kccllc.net/WalterEnergy> (the "**Case Website**"), (i) the list of the Stalking Horse Purchaser Designated Contracts, which the Debtors will update as and when executory contracts

or unexpired leases are added or deleted by the Stalking Horse Purchaser and (ii) a description of the Stalking Horse Purchaser and information as to the Stalking Horse Purchaser's ability to perform the Debtors' obligations under the Stalking Horse Purchaser Designated Contracts.

43. As soon as reasonably practicable after receiving the schedule from each Qualified Bidder of those executory contracts or unexpired leases it wishes to assume, and no later than the date of the Auction, the Debtors shall post such schedule on the Case Website together with information related to the adequate assurance with respect to such Qualified Bidder.

44. To the extent that any non-Debtor counterparty wishes to object to the adequate assurance of future performance by the Stalking Horse Purchaser or another Qualified Bidder under the applicable executory contract(s) or unexpired lease(s), then such non-Debtor counterparty shall file a written objection with the Court and serve on the Notice Parties and the applicable Qualified Bidder(s) so that such objection is received on or before **thirty (30) minutes prior to the commencement of the Sale Hearing.**

45. To the extent that any non-Debtor counterparty does not timely file and serve an objection as set forth above, such counterparty will be: (i) deemed to have consented to the Cure Amount(s), if any, set forth in the Cure Notice; (ii) barred, estopped and enjoined from asserting any additional Cure Amount(s) under the assumed and assigned executory contract(s) or unexpired lease(s); (iii) barred from objecting to the assumption and assignment of the applicable assumed and assigned executory contract(s) or unexpired lease(s) to the Successful Bidder(s), and (iv) barred from objecting to adequate assurance of future performance by the Successful Bidder(s).

**Related Relief**

46. The Debtors are hereby authorized and empowered to take such actions as may be reasonably necessary to implement and effect the terms and requirements established by this Order.

47. This Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon execution hereof.

48. The Debtors are authorized to proceed with the Sale(s) without the necessity of complying with any state or local bulk transfer laws or requirements.

49. This Order shall be binding on the Debtors, including any chapter 7 or chapter 11 trustee or other fiduciary appointed for the Debtors' estates.

50. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7052, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

51. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: November 25, 2015

/s/ Tamara O. Mitchell  
TAMARA O. MITCHELL  
UNITED STATES BANKRUPTCY JUDGE

## EXHIBIT A TO BIDDING PROCEDURES ORDER

### EXHIBIT A BIDDING PROCEDURES<sup>1</sup>

By motion, Walter Energy, Inc. (the “Company”) and certain of its subsidiaries (together with the Company, the “Debtors”),<sup>2</sup> which are debtors and debtors in possession in jointly administered chapter 11 cases (the “Chapter 11 Cases”) pending in the United States Bankruptcy Court for the Northern District of Alabama (the “Bankruptcy Court”) under Case No. 15-02741 (TOM), sought approval of, among other things, the procedures through which they will, in consultation with a steering committee of first lien lenders and first lien noteholders (the “Steering Committee”) and the other Consultation Parties (as defined below) determine the highest or otherwise best offer(s) for the sale(s) of one or more categories of the Debtors’ assets (each, a “Lot” and collectively, the “Lots”), which Lots are identified in Exhibit A hereto, together with the assets therein, comprise and constitute all, or substantially all, of the Debtors’ assets (collectively, the “Subject Assets”) (the “Motion”).

As referenced in the Motion, a stalking horse asset purchase agreement (including all exhibits, schedules and ancillary agreements related thereto, and as amended and in effect, the “Stalking Horse Agreement”) has been entered into by and among the Company, the other Debtors (together with the Company, the “Sellers”) and Coal Acquisition LLC (the “Stalking Horse Purchaser”), dated as of November 5, 2015, which Stalking Horse Agreement contemplates a purchase and sale of the Acquired Assets to the Stalking Horse Purchaser, on the terms and subject to the conditions provided therein. A copy of the Stalking Horse Agreement is attached as an exhibit to the Motion.

On November 25, 2015, the Bankruptcy Court entered an order (the “Bidding Procedures Order”), which, among other things, authorized the Debtors to determine the highest or otherwise best offer(s) for one or more of the Lots through the process and procedures set forth below (the “Bidding Procedures”).

To the extent the Bidding Procedures require the Debtors to consult with the Steering Committee or any other Consultation Party (as defined below) in connection with making a determination or taking an action, or in connection with any other matter related to the Bidding Procedures or the Auction (as defined below), the Debtors shall do so in a regular and timely manner prior to making such determination or taking such action.

#### Assets to Be Sold

A party may participate in the bidding process by submitting a Bid (as defined below) for (a) all or substantially all of the Core Acquired Assets (as defined below) and/or (b) one or more, or any

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Stalking Horse Agreement.

<sup>2</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

combination of, Lots comprising the Non-Core Assets (as defined below) that such party may desire.

The Stalking Horse Agreement is an offer to purchase all of the Acquired Assets. The “**Core Acquired Assets**” is defined herein to mean the Acquired Assets minus (i) Blue Creek Assets, (ii) the Miscellaneous Real Property Assets and (iii) the Walter Coke Assets, each as identified and described in **Exhibit A**. Bidders who intend to submit Bids for all or substantially all of the Core Acquired Assets should reference the Stalking Horse Agreement in connection with such Bids. For Bidders who intend to submit Bids for one or more, or any combination of, Lots comprising the Taft Assets, the Select JWR Assets, the West Virginia Assets, the Blue Creek Assets, one or more of the Miscellaneous Real Property Assets and the Walter Coke Assets, in each case as identified and described in **Exhibit A** (collectively, the “**Non-Core Assets**”), on or before the date that is ten (10) days prior to the Bid Deadline (as defined below), the Debtors will make available to Preliminary Interested Investors (as defined below) one or more forms of asset purchase agreement(s) that will be substantially similar to the Stalking Horse Agreement, but with modifications appropriate for the purchase of such applicable Lot(s), and not the other Subject Assets (each such agreement, a “**Short Form APA**”).

Subject to and as otherwise provided in the Sale Order, all of the Debtors’ right, title and interest in and to the Subject Assets subject thereto shall be sold free and clear of any pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, the “**Liens**”), with such Liens to attach to the proceeds of the sale of the Subject Assets with the same validity and priority as such Liens applied against the Subject Assets, except as otherwise specifically provided in the Stalking Horse Agreement or a Modified Asset Purchase Agreement (as defined below) submitted by a Successful Bidder (as defined below) (including any exhibits or schedules thereto) and reflected in the Sale Order.

### **Bidding Process**

The Debtors and their advisors shall, subject to the other provisions of these Bidding Procedures, including the consultation obligations set forth herein, (a) determine whether any person is a Qualified Bidder (as defined below), (b) coordinate the efforts of Preliminary Interested Investors (as defined below) in conducting their due diligence investigations, (c) receive offers from Bidders, and (d) negotiate any offers made to purchase (i) all or substantially all of the Core Acquired Assets and/or (ii) one or more Lots, or any combination thereof, constituting the Non-Core Assets.

### **Key Dates For Potential Competing Bidders**

The Bidding Procedures provide interested parties with the opportunity to qualify for and participate in the Auction to be conducted by the Debtors and to submit competing bids for the Subject Assets. The Debtors shall assist Preliminary Interested Investors in conducting their respective due diligence investigations and shall accept Bids until **January 4, 2016 at 12:00 p.m. (prevailing Central time)** (the “**Bid Deadline**”).

The key dates for the sale process are as follows:<sup>3</sup>

January 4, 2016 at 12:00 p.m. (prevailing Central time)	Bid Deadline - Due Date for Bids and Deposits
January 5, 2016 at 10:00 a.m. (prevailing Central time)	Auction, which will be held at Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203
January 6, 2016 at 9:00 a.m. (prevailing Central time)	Sale Hearing, which will be held at the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, 1800 Fifth Avenue, North Birmingham, Alabama 35203

Unless otherwise approved by the Bankruptcy Court, no amendment or other modification to these Bidding Procedures (including the extension of any of the deadlines set forth herein) shall be made by the Debtors without the prior written approval of the Steering Committee and after consultation with the Official Committee of Unsecured Creditors (“**UCC**”).

***Access to Diligence Materials.***

To participate in the bidding process and to receive access to due diligence materials (the “**Diligence Materials**”), a party must submit to the Debtors (i) an executed confidentiality agreement in substantially the form attached hereto as **Exhibit B**, the material provisions of which the Debtors shall not waive and shall use reasonable efforts to enforce, and (ii) reasonable evidence demonstrating the party’s financial capability to consummate a sale transaction for the Core Acquired Assets (an “**Alternate Transaction**”), and/or one or more Lots comprising the Non-Core Assets (a “**Supplemental Transaction**”), as applicable, as determined by the Debtors in consultation with the Consultation Parties.

A party who qualifies for access to Diligence Materials shall be a “**Preliminary Interested Investor**.” The Debtors will afford any Preliminary Interested Investor the time and opportunity to conduct reasonable due diligence; provided, however, that the Debtors shall not be obligated to furnish any due diligence information after the Bid Deadline to any party that has not submitted a Qualified Bid (as defined below) and may, in consultation with the Consultation Parties, limit the amount of further due diligence available to Qualified Bidders after the Bid Deadline.

The Debtors reserve the right to withhold any Diligence Materials that the Debtors, in consultation with the Consultation Parties, determine are business-sensitive or otherwise not appropriate for disclosure to a Preliminary Interested Investor who is a competitor of the Debtors or is affiliated with any competitor of the Debtors. Neither the Debtors nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Preliminary Interested Investor.

All due diligence requests must be directed to PJT Partners Inc., Attn: Kerry Greer (greer@pjtpartners.com).

<sup>3</sup> These dates are subject to extension, adjournment, or bifurcation as provided for herein.

### *Due Diligence from Bidders.*

Each Preliminary Interested Investor and each Bidder shall comply with all reasonable requests for additional information and due diligence access by the Debtors or their advisors regarding such Preliminary Interested Investor or Bidder, as applicable, and its contemplated transaction. Failure by a Preliminary Interested Investor or Bidder (other than the Stalking Horse Purchaser) to comply with requests for additional information and due diligence access may be a basis for the Debtors to determine that such Bidder is not a Qualified Bidder.

### **Auction Qualification Process**

To be eligible to participate in the Auction, each offer, solicitation or proposal (each, a “**Bid**”), and each party submitting such a Bid (other than the Stalking Horse Purchaser) (each, a “**Bidder**”), must be reasonably determined by the Debtors, in consultation with the Consultation Parties, to satisfy each of the following conditions:

- (a) **Good Faith Deposit**: Each Bid must be accompanied by a cash deposit in the amount of ten percent (10%) of the purchase price (excluding any Assumed Liabilities) contained in the Modified Asset Purchase Agreement or Short Form APA, as applicable, which deposit shall be held in an interest-bearing escrow account to be identified and established by the Debtors (the “**Good Faith Deposit**”).
- (b) **Same or Better Terms**: In connection with any Bid for the Core Acquired Assets, such Bid must be on terms that the Debtors, in their business judgment and after consulting with the Consultation Parties, determine are the same or better for the Debtors than the terms of the Stalking Horse Agreement.
- (c) **Executed Agreement**: Each Bid must be based on the Stalking Horse Agreement or the Short Form APA, as applicable, and must include binding, executed transaction documents, signed by an authorized representative of such Bidder, pursuant to which the Bidder proposes to effectuate an Alternate Transaction or Supplemental Transaction, as applicable (a “**Modified Asset Purchase Agreement**”). A Bid must also include a copy of the Modified Asset Purchase Agreement (including all exhibits thereto) marked against the Stalking Horse Agreement or the Short Form APA, as applicable, to show all changes requested by the Bidder (including those related to purchase price and to remove any provisions that apply only to the Stalking Horse Purchaser, such as the expense reimbursement and break-up fee provisions contained in the Stalking Horse Agreement, which shall not be in any Modified Asset Purchase Agreement). Each Modified Asset Purchase Agreement must provide a representation that the Qualified Bidder will (i) make all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “**HSR Act**”), if applicable, and (ii) submit and pay the fees associated with all necessary filings under the HSR Act as soon as reasonably practicable; provided, however, that the timing and likelihood of receiving HSR Act approval will be a consideration in determining the highest or otherwise best Bid.
- (d) **Scope of Bid**: A Bid must be for (i) all or substantially all of the Core Acquired Assets and/or (ii) specifically identified Lots, or combinations of Lots, comprising

all or any portion of the Non-Core Assets that such Bidder may desire, in such case the Bid must identify which Lot(s) are included in the Bid. Any Bid for any assets of the Debtors that have Reclamation Liabilities associated therewith must also expressly assume all such Reclamation Liabilities as part of the Bid.

- (e) **Minimum Bid:** A Bid for all or substantially all of the Core Acquired Assets must, individually or in conjunction with one or more other Bids, have a purchase price, including any assumption of liabilities, that in the Debtors' reasonable business judgment (after consultation with the Consultation Parties) has a value greater than the sum of (i) the Purchase Price (as defined in the Stalking Horse Agreement) *plus* (ii) \$10 million. A Bid for the Blue Creek Assets must, individually or in conjunction with one or more other Bids, have a purchase price, including any assumption of liabilities associated with the Blue Creek Assets, that in the Debtors' reasonable business judgment (after consultation with the Consultation Parties) has a value greater than \$55 million. If a Walter Coke Election is not made, a Bid for the Walter Coke Assets must, individually or in conjunction with one or more other Bids, have a purchase price, including any assumption of liabilities associated with the Walter Coke Assets, that in the Debtors' reasonable business judgment (after consultation with the Consultation Parties) has a value greater than \$105 million. If a Walter Coke Election is made, there will be no minimum bid in connection with any Bid for the Walter Coke Assets.

Except as set forth in the immediately preceding paragraph, in the event that a potential Bidder submits a Bid for one or more Lots comprising all or any portion of the Non-Core Assets, the Debtors, after consultation with the Consultation Parties, shall determine whether such Bid is a Qualified Bid (defined herein) with respect to such Lot(s). Any Bid for a combination of Lots, other than the Bid by the Stalking Horse Purchaser, must (x) allocate the purchase consideration among such Lots, (y) state whether the Bid is conditioned upon the Bidder being the Successful Bidder (as defined below) on more than one Lot and, if so, which are the Lots that the Bid is conditioned upon, and (z) state whether the Bidder is willing to purchase any of the Lots included in the Bid individually, and if so, the Bid must state the price the Bidder would pay for each such Lot.

- (f) **Designation of Assigned Contracts and Leases:** A Bid must identify the executory contracts and unexpired leases with respect to which the Bidder seeks assignment from the Sellers.
- (g) **Designation of Assumed Liabilities:** A Bid must identify all liabilities which the Bidder proposes to assume.
- (h) **Corporate Authority:** A Bid must include written evidence reasonably acceptable to the Debtors demonstrating appropriate corporate authorization to consummate the proposed Alternate Transaction or Supplemental Transaction, as applicable; provided that, if the Bidder is an entity specially formed for the purpose of effectuating the Alternate Transaction or Supplemental Transaction, as applicable, then the Bidder must furnish written evidence reasonably acceptable to the Debtors of the approval of the Alternate Transaction or Supplemental Transaction, as applicable, by the equity holder(s) of such Bidder.

- (i) **Disclosure of Identity of Bidder:** A Bid must fully disclose the identity of each entity that will be bidding for or purchasing the Subject Assets (or one or more Lots), including any equity holders in the case of a Bidder which is an entity specially formed for the purpose of effectuating the contemplated transaction, or otherwise participating in connection with such Bid, and the complete terms of any such participation, including any agreements, arrangements or understandings concerning a collaborative or joint bid or any other combination concerning the proposed Bid. A Bid must also fully disclose any connections or agreements with the Debtors, the Stalking Horse Purchaser or any other known, potential, prospective Bidder or Qualified Bidder, and/or any officer, director or equity security holder of the Debtors. All information disclosed pursuant to this paragraph shall be made available by the Debtors to the Steering Committee promptly upon Debtors' receipt thereof but in any event no later than one (1) business day following the Bid Deadline.
- (j) **Proof of Financial Ability to Perform:** A Bid must include written evidence that the Debtors may conclude, in consultation with their advisors and the Consultation Parties, demonstrates that the Bidder has the necessary financial ability to close the Alternate Transaction or Supplemental Transaction, as applicable, and comply with section 365 of the Bankruptcy Code, including providing adequate assurance of future performance under all contracts to be assumed and assigned in such Alternate Transaction or Supplemental Transaction. Such information must include, *inter alia*, the following:
- (1) contact names and numbers for verification of financing sources;
  - (2) evidence of the Bidder's internal resources and proof of unconditional debt funding commitments from a recognized banking institution and, if applicable, equity commitments in an aggregate amount equal to the cash portion of such Bid or the posting of an irrevocable letter of credit from a recognized banking institution issued in favor of the Debtors in the amount of the cash portion of such Bid, in each case, as are needed to close such Alternate Transaction or Supplemental Transaction;
  - (3) the Bidder's current financial statements (audited if they exist) or other similar financial information reasonably acceptable to the Debtors;
  - (4) a description of the Bidder's pro forma capital structure; and
  - (5) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors, in consultation with the Consultation Parties, demonstrating that such Bidder has the ability to close the Alternate Transaction or Supplemental Transaction, as applicable.
- (k) **Regulatory and Third Party Approvals:**
- (i) A Bid must set forth each regulatory and third-party approval required for the Bidder to consummate the Alternate Transaction or Supplemental Transaction, as applicable, and the time period within which the Bidder

expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than thirty (30) days following execution and delivery of the Modified Asset Purchase Agreement, those actions the Bidder will take to ensure receipt of such approval(s) as promptly as possible).

- (ii) By the Bid Deadline, a Bidder for any of the Lots which contain mining assets must demonstrate to the satisfaction of the Debtors that it will pass a compliance check of the Applicant Violator System managed by the federal Office of Surface Mining Reclamation and Enforcement and that the Bidder will be able to continue to pass such a compliance check until all permits of Debtor related to mining in such Lot(s) are transferred to Bidder if it is the Successful Bidder for such Lot(s). This process will require disclosure of information about the organizational structure of Bidder and its affiliates and certain other information to Debtors.
- (l) **Contact Information and Affiliates**: A Bid must provide the identity and contact information for the Bidder and full disclosure of any affiliates of the Bidder.
- (m) **Contingencies**: Each Bid (i) may not contain representations and warranties, covenants, or termination rights materially more onerous in the aggregate to the Debtors than those set forth in the Stalking Horse Agreement or the Short Form APA, as applicable, as determined by the Debtors in good faith, and (ii) may not be conditioned on obtaining financing, any internal approvals or credit committee approvals, or on the outcome or review of due diligence, including with respect to any Environmental Laws, Mining and Mining Safety Laws or employee, labor, health and/or safety matters.
- (n) **Irrevocable**: Each Bid must be irrevocable until five (5) business days after the Sale Hearing; provided that if such Bid is accepted as the Successful Bid or the Backup Bid (each as defined herein) for any one or more of the Lots, such Bid shall continue to remain irrevocable until the closing of the sale of such Lot(s).
- (o) **Compliance with Diligence Requests**: The Bidder submitting the Bid must have complied with reasonable requests for additional information and due diligence access from the Debtors to the reasonable satisfaction of the Debtors, in consultation with the Consultation Parties.
- (p) **Confidentiality Agreement**: To the extent not already executed, the Bid must include an executed confidentiality agreement in substantially the form attached as **Exhibit B**.
- (q) **Termination Fees**: The Bid (other than the Bid pursuant to the Stalking Horse Agreement) must not entitle the Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement and, by submitting the Bid, the Bidder waives the right to pursue a substantial contribution claim under 11 U.S.C. § 503 related in any way to the submission of its Bid or participation in any Auction.

- (r) **Closing Date:** The Bid must include a commitment to close the transactions contemplated by the Modified Asset Purchase Agreement by no later than February 29, 2016; provided that such date may be extended for a period not to exceed thirty (30) days and solely for the purpose of obtaining any necessary regulatory approvals.
- (s) **Bid Deadline:** The following parties must receive a Bid in writing (in both PDF and Word format), on or before the Bid Deadline: (i) the Debtors, 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359, Attention: Earl Doppelt (earl.doppelt@walterenergy.com); (ii) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley A. Cornish (kcornish@paulweiss.com) and Stephen J. Shimshak (sshimshak@paulweiss.com); (iii) co-counsel to the Debtors, Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Patrick Darby (pdarby@babco.com); (iv) financial advisor to the Debtors, PJT Partners Inc., 280 Park Avenue, New York, New York 10017, Attention: Adam Schlesinger (schlesinger@pjtpartners.com) and Kerry Greer (greer@pjtpartners.com); (v) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attention: Ira Dizengoff (idizengoff@akingump.com) and 1333 New Hampshire Ave NW, Washington, DC 20036, Attention: James Savin (jsavin@akingump.com); (vi) financial advisor to the Steering Committee, Lazard Frères & Co. LLC, 190 South LaSalle Street, Chicago, IL 60603, Attention: Tyler Cowan (tyler.cowan@lazard.com) and (vii) counsel to the UCC, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attention: Brett H. Miller (brettmiller@mofo.com), Lorenzo Marinuzzi (lmarinuzzi@mofo.com), and Jennifer L. Marines (jmarines@mofo.com).

A Bid received from a Bidder before the Bid Deadline that meets the above requirements for (a) all or substantially all of the Core Acquired Assets and/or (b) specifically identified Lots, or combinations of Lots, comprising all or any portion of the Non-Core Assets that such Bidder may desire, in each case as determined by the Debtors in consultation with the Consultation Parties, shall constitute a “**Qualified Bid**” with respect to such Lot(s), and such Bidder shall constitute a “**Qualified Bidder**” for such Lot(s); provided that if the Debtors receive a Bid prior to the Bid Deadline that is not a Qualified Bid, the Debtors may, in consultation with the Consultation Parties, provide the Bidder with the opportunity to remedy any deficiencies prior to the Auction; provided, further, that, for the avoidance of doubt, if any Qualified Bidder fails to comply with reasonable requests for additional information and due diligence access from the Debtors to the satisfaction of the Debtors, in consultation with the Consultation Parties, the Debtors may, after consulting with the Consultation Parties, disqualify any Qualified Bidder and Qualified Bid, in the Debtors’ discretion and such Bidder shall not be entitled to attend or participate in the Auction. Any amendments, supplements or other modifications to any Bids (including pursuant to this paragraph) shall be delivered to the parties listed in paragraph (s) above as provided therein. All Qualified Bids will be considered, but the Debtors reserve their right to reject any or all bids. However, bids that are unconditional and contemplate sales that may be consummated on or soon after the Sale Hearing are preferred. Additionally, notwithstanding anything herein to the contrary, the Stalking Horse Agreement submitted by the Stalking Horse Purchaser shall be deemed a Qualified Bid, and the Stalking Horse Purchaser a Qualified Bidder. The Debtors shall inform counsel to the Stalking Horse Purchaser, the

Consultation Parties and any Qualified Bidders whether the Debtors consider any Bid to be a Qualified Bid as soon as practicable following the Bid Deadline.

Each Qualified Bidder, by submitting a Bid, shall be deemed to acknowledge and agree that it is not relying upon any written or oral statements, representations, promises, warranties or guarantees of any kind whether expressed or implied, by operation of law or otherwise, made by any person or party, including the Sellers and their agents and representatives (other than as may be set forth in a definitive agreement executed by the Debtors), regarding the Debtors, any of the Subject Assets, the Auction, these Bidding Procedures or any information provided in connection therewith.

### **Auction**

If (a) one or more Qualified Bids (other than the Stalking Horse Agreement) comprising all or substantially all of the Core Acquired Assets are submitted by the Bid Deadline and/or (b) two or more Qualified Bids with respect to any particular Lot or group of Lots comprising all or any portion of the Non-Core Assets are submitted by the Bid Deadline, the Debtors will conduct an auction (the "Auction") to determine the highest or otherwise best Qualified Bid with respect to the applicable Lot(s). This determination shall take into account any factors the Debtors, in consultation with the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtors' estates and may include, but are not limited to, the following: (i) the amount and nature of the consideration, including any assumed liabilities; (ii) the number, type and nature of any modifications to the Stalking Horse Agreement or Short Form APA, as applicable, requested by each Bidder in such Bidder's Modified Asset Purchase Agreement; (iii) the extent to which such modifications are likely to delay closing of the sale of the applicable asset(s) and the cost to the Debtors of such modifications or delay; (iv) the total consideration to be received by the Debtors; (v) the likelihood of the Bidder's ability to close a transaction and the timing thereof; (vi) the timing and likelihood of HSR Act approval; and (vii) the net benefit to the Debtors' estates (collectively, the "Bid Assessment Criteria").

If no timely, conforming Qualified Bids (other than the Qualified Bid submitted by the Stalking Horse Purchaser) for the Core Acquired Assets are received, the Auction for the Core Acquired Assets shall be canceled and the Stalking Horse Agreement shall be the Successful Bid for the Core Acquired Assets and the Stalking Horse Purchaser shall be the Successful Bidder for the Core Acquired Assets.

If no timely, conforming Qualified Bids (other than the Qualified Bid submitted by the Stalking Horse Purchaser) for Blue Creek Assets and/or Miscellaneous Real Property Assets are received, there shall be no Auction for such Blue Creek Assets and/or Miscellaneous Real Property Assets, as applicable, and the Stalking Horse Agreement shall be the Successful Bid for the Blue Creek Assets and/or Miscellaneous Real Property Assets, as applicable, and the Stalking Horse Purchaser shall be the Successful Bidder for the Blue Creek Assets and/or Miscellaneous Real Property Assets, as applicable.

If a Walter Coke Election is not made with respect to the Walter Coke Assets, and no timely, conforming Qualified Bids (other than the Qualified Bid submitted by the Stalking Horse Purchaser) for the Walter Coke Assets are received, there shall be no Auction for such Walter Coke Assets and, as provided in the Stalking Horse Agreement, the Stalking Horse Purchaser shall be the Successful Bidder for the Walter Coke Assets.

Other than as expressly set forth herein (including with respect to the minimum bid amounts for the Blue Creek Assets and the Walter Coke Assets), with respect to Bids for any Non-Core Assets, the Debtors will determine whether any individual Bid or combination of Bids is a Qualified Bid and will conduct an Auction with respect to such Bids for the Non-Core Assets as Debtors, in consultation with the Consultation Parties, deem appropriate and in the best interests of Debtors and their estates.

### **Procedures for Auction**

If (a) one or more Qualified Bids (other than the Stalking Horse Agreement) comprising all or substantially all of the Core Acquired Assets are submitted by the Bid Deadline or (b) two or more Qualified Bids with respect to any particular Lot or group of Lots comprising all or any portion of the Non-Core Assets are submitted by the Bid Deadline, the Debtors shall conduct the Auction on January 5, 2016 at 10:00 a.m. (prevailing Central Time) at the offices of Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203 or such other place and time as the Debtors shall notify all Qualified Bidders, the Stalking Horse Purchaser, the Steering Committee, the Credit Agreement Agent, the Indenture Trustee, the UCC and each of their respective counsel and advisors. The Auction shall be conducted according to the following procedures:

#### ***Participation.***

Only the Debtors, the Consultation Parties, the Stalking Horse Purchaser and any other Qualified Bidder, in each case, along with their representatives and counsel, may attend the Auction (such attendance to be in person) and only the Credit Agreement Agent, the Indenture Trustee, the Stalking Horse Purchaser and such other Qualified Bidders will be entitled to make any Bids at the Auction; provided, however, that any other creditor or other indenture trustee may attend (but not participate in) the Auction if it provides the Debtors written notice of its intention to attend the Auction on or before the Bid Deadline. Such written notice must be sent to counsel for the Debtors via electronic mail, to Claudia R. Tobler (ctobler@paulweiss.com) and Ann K. Young (ayoung@paulweiss.com).

#### ***The Debtors Shall Conduct the Auction.***

The Debtors and their professionals shall direct and preside over the Auction and the Auction shall be transcribed. Other than as expressly set forth herein, the Debtors (in consultation with the Consultation Parties) may conduct the Auction in the manner they reasonably determine will result in the highest or otherwise best Qualified Bid(s).

One (1) day prior to the Auction, the Debtors will:

- (i) notify each Qualified Bidder that has timely submitted a Qualified Bid that its Bid is a Qualified Bid;
- (ii) provide each Qualified Bidder participating in the Auction with a copy of the Modified Asset Purchase Agreements associated with all Qualified Bids and an indication as to which Qualified Bid is the highest or otherwise best Qualified Bid with respect to any Lot or group of Lots, as determined by the Debtors in consultation with the Consultation Parties, received before the Bid Deadline (such highest or otherwise best Qualified Bid with respect to any Lot or group of Lots, each “**Auction Baseline Bid**”).

In addition, at the start of the Auction, the Debtors shall describe the terms of each Auction Baseline Bid. Each Qualified Bidder participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein, (b) has reviewed, understands and accepts the Bidding Procedures and (c) has consented to the core jurisdiction of the Bankruptcy Court.

The Debtors shall consult in good faith with the Consultation Parties throughout the Auction process to the extent reasonably practicable. Any rules developed by the Debtors (after consulting with the Consultation Parties) will provide that all bids will be made and received in one room, on an open basis, and all other Bidders will be entitled to be present for all bidding with the understanding that the true identity of each Bidder will be fully disclosed to all other Bidders and that all material terms of each Qualified Bid submitted in response to an Auction Baseline Bid, or to any successive bids made at the Auction, will be fully disclosed to all other Bidders bidding on such applicable Lots throughout the entire Auction, and each Qualified Bidder will be permitted what the Debtors determine to be an appropriate amount of time to respond to the previous bid at the Auction.

***Terms of Overbids.***

An “**Overbid**” is any bid made at the Auction subsequent to the Debtors’ announcement of the respective Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions:

- (a) **Minimum Overbid Increments**: Any Overbid for all or substantially all of the Core Acquired Assets, after and above its respective Auction Baseline Bid shall be made in increments valued at not less than \$10,000,000 (or such other amount as shall be announced at the Auction by the Debtors after consultation with the Consultation Parties) in cash or in cash equivalents, or other forms of consideration acceptable to the Debtors, with the consent of the Consultation Parties. Any Overbid for the Blue Creek Assets or the Walter Coke Assets, in each case, after and above their respective Auction Baseline Bid shall be made in increments valued at not less than \$1,000,000 (or such other amount as shall be announced at the Auction by the Debtors after consultation with the Consultation Parties) in cash or in cash equivalents, or other forms of consideration acceptable to the Debtors, with the consent of the Consultation Parties. Except as set forth in the immediately preceding sentence, any Overbid for a Lot comprising the Non-Core Asset(s) after and above the respective Auction Baseline Bid shall be made in increments as shall be announced at Auction, in cash or in cash equivalents, or other forms of consideration acceptable to the Debtors, with the consent of the Consultation Parties.
- (b) **Stalking Horse Purchaser May Credit Bid First Lien Claims**<sup>4</sup>: The Stalking Horse Purchaser shall be entitled to submit Overbids in cash, cash equivalents or other forms of consideration, as described above, or additional credit bid amounts up to the aggregate amount of the prepetition first lien senior secured obligations (including any accrued but unpaid prepetition interest), together with the amount of the Bid Protections and all first lien adequate protection claims arising under the Cash Collateral Orders (collectively, the “**First Lien Claims**”).

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<sup>4</sup> For the avoidance of doubt, with respect to credit bids of the First Lien Claims, such credit bids may be made by the Indenture Trustee and Credit Agreement Agent, as applicable, on behalf of the Stalking Horse Purchaser.

- (c) **Remaining Terms Are the Same as for Qualified Bids:** Except as modified herein, an Overbid at the Auction must comply with the conditions for a Qualified Bid set forth above, provided, however, that the Bid Deadline shall not apply. Any Overbid must include, in addition to the amount and the form of consideration of the Overbid, a description of all changes requested by the Bidder to the Stalking Horse Agreement or Modified Asset Purchase Agreement, as the case may be, in connection therewith. Any Overbid must remain open and binding on the Bidder as provided herein.

At the Debtors' discretion, to the extent not previously provided (which shall be determined by the Debtors in consultation with the Consultation Parties), a Bidder submitting an Overbid at the Auction must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors, in consultation with the Consultation Parties) reasonably demonstrating such Bidder's ability to close the Alternate Transaction or Supplemental Transaction, as applicable, proposed by such Overbid.

#### ***Announcement and Consideration of Overbids.***

- (a) **Announcement of Overbids:** The Debtors shall announce at the Auction the material terms of each Overbid, the total amount of consideration offered in each such Overbid, and the basis for calculating such total consideration. The Debtors shall also provide all terms of each Overbid, including non-economic terms, to the Consultation Parties.
- (b) **Consideration of Overbids:** Subject to the deadlines set forth herein, the Debtors reserve the right, in their reasonable business judgment in consultation with the Consultation Parties, to make one or more continuances of the Auction to, among other things: facilitate discussions between the Debtors and individual Qualified Bidders; allow individual Qualified Bidders to consider how they wish to proceed; or give Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors in their reasonable business judgment (after consulting with the Consultation Parties) may require, that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed Alternate Transaction or Supplemental Transaction, as applicable, at the prevailing Overbid amount. When comparing Overbids to the Qualified Bid made by the Stalking Horse Purchaser, the Debtors shall treat the credit bid (including any Overbid) made by the Stalking Horse Purchaser as being made in cash or in cash equivalents.

#### ***Other Procedures.***

- (a) **Jurisdiction of Bankruptcy Court:** All Qualified Bidders (including the Stalking Horse Purchaser) at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waive any right to a jury trial in connection with any disputes relating to the marketing process, the Auction, and

the construction and enforcement of the Qualified Bidder's fully executed sale and transaction documents, as applicable.

- (b) **Stalking Horse Purchaser Bid:** The Stalking Horse Purchaser shall be entitled to (i) credit bid all or a portion of the First Lien Claims, consistent with Bankruptcy Code section 363(k); (ii) allocate such credit bid among the Lots comprised of assets which are subject to Liens securing the First Lien Claims, as provided in the Stalking Horse Agreement; (iii) reduce the amount of the credit bid to the extent the Stalking Horse Purchaser is not the Successful Bidder with respect to any Lot that includes assets which are subject to Liens securing the First Lien Claims, as provided in the Stalking Horse Agreement; and (iv) submit additional bids and make modifications to the Stalking Horse Agreement (including submitting one or more Short Form APAs with respect to one or more Lots constituting Non-Core Assets to the extent contemplated by the Stalking Horse Agreement) at the Auction consistent with these Bidding Procedures. It is agreed that the Stalking Horse Purchaser shall not be obligated to consummate the Stalking Horse Agreement or purchase all or any portion of the Acquired Assets if it is unable to credit bid in payment of all or any portion of the credit bid portion of the purchase price for such assets as set forth in the Stalking Horse Agreement.
- (c) **Additional Bids; Modifications:** All Qualified Bidders, including the Stalking Horse Purchaser, shall have the right to submit additional bids and make additional modifications to the Stalking Horse Agreement, the Short Form APA or Modified Asset Purchase Agreement at the Auction, as applicable, provided that any such modifications to the Stalking Horse Agreement, the Short Form APA or Modified Asset Purchase Agreement on an aggregate basis and viewed in whole, shall not, in the Debtors' business judgment, be less favorable to the Debtors with respect to the particular Lots than the terms of the Stalking Horse Agreement or the Short Form APA, as applicable.

#### ***Additional Procedures.***

The Debtors (after consulting with the Consultation Parties) may announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction so long as such rules are not inconsistent in any material respect with the Bidding Procedures or the Stalking Horse Agreement. Any Auction rules adopted by the Debtors will not modify any of the terms of the Stalking Horse Agreement or the rights of the Stalking Horse Purchaser under the Bid Procedures (as may be consensually modified at the Auction) without the consent of the Stalking Horse Purchaser.

#### ***Sale Is As Is/Where Is.***

Except as otherwise provided in the Stalking Horse Agreement, any Modified Asset Purchase Agreement, including any Short Form APA, or any order by the Bankruptcy Court approving any Sale(s) of the Subject Assets as contemplated hereunder, the applicable Subject Assets sold pursuant to the Bidding Procedures shall be conveyed at the closing of the purchase and sale of the applicable Subject Assets in their then-present condition, **“AS IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED.”**

### ***Closing the Auction.***

The Auction shall continue in additional rounds of bidding until the Debtors select, after consultation with the Consultation Parties, the Bid that is the highest or otherwise best offer for (a) all or substantially all of the Core Acquired Assets or (b) any of the Lots comprising the Non-Core Assets, as applicable, from among the Qualified Bids submitted at the Auction (each, a “**Successful Bid**,” and the Bidder submitting such Successful Bid with respect to any Lot, a “**Successful Bidder**”). The Successful Bidder(s) shall have the rights and responsibilities of the purchaser(s) as set forth in the applicable Stalking Horse Agreement, Short Form APA or Modified Asset Purchase Agreement. There may be more than one Successful Bid and Successful Bidder if bids for one or more Lots are determined to be Successful Bids. In selecting each Successful Bid, the Debtors and the Consultation Parties shall consider the Bid Assessment Criteria.

The Auction for the applicable Subject Asset shall close when each Successful Bidder submits fully executed sale and transaction documents memorializing the terms of its Successful Bid.

Promptly following the Debtors’ selection, after consulting with the Consultation Parties, of each Successful Bid and the conclusion of the Auction, the Debtors shall announce each Successful Bid and Successful Bidder and shall file with the Bankruptcy Court notice of each Successful Bid and Successful Bidder.

The Debtors shall not consider any Bids submitted after the conclusion of the Auction.

### ***Backup Bidder.***

Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the Qualified Bidder with the next highest or otherwise best Bid at the Auction with respect to (a) all or substantially all of the Core Acquired Assets and/or (b) any of the Lots comprising the Non-Core Assets, as applicable, as determined by the Debtors, in the exercise of their business judgment and after consulting with the Consultation Parties, will be designated as the backup bidder (the “**Backup Bidder**”) for such Lot(s), as applicable. Each Backup Bidder shall be required to keep its initial Bid (or if such Backup Bidder submitted one or more Overbids at the Auction, the Backup Bidder’s final Overbid) (the “**Backup Bid**”) open and irrevocable until the closing of the relevant transaction with the Successful Bidder with respect to such Lot(s).

Following the Sale Hearing, if the Successful Bidder fails to consummate the purchase of any relevant Lot(s)), the Debtors may, after consultation with the Consultation Parties, deem the Backup Bidder with respect to such Lot(s) to have the new Successful Bid, and the Debtors will be authorized, without further order of the Bankruptcy Court, to consummate the transaction with such Backup Bidder at the price of its last bid with respect to such Lot(s). Such Backup Bidder will be deemed to be the Successful Bidder with respect to such Lot(s) and the Debtors will be authorized, but not directed, to effectuate a sale of such Lot(s) to such Backup Bidder subject to the terms of the Backup Bid without further order of the Bankruptcy Court. All Qualified Bids (other than each Successful Bid and Backup Bid) shall be deemed rejected by the Debtors on and as of the date of approval of each Successful Bid and Backup Bid by the Bankruptcy Court. The Debtors, on their behalf and on behalf of each of their respective estates, specifically reserve the right to seek all available damages, including specific performance, from any defaulting Successful Bidder (including any Backup Bidder designated as a Successful Bidder) in accordance with the terms of the Bidding Procedures.

For the avoidance of doubt, in the event that there is a Successful Bidder (other than the Stalking Horse Purchaser) with respect to all or substantially all of the Core Acquired Assets, and the

Stalking Horse Purchaser is the Backup Bidder, the Stalking Horse Purchaser will be deemed to be the Back-Up Bidder at the price of its last overbid with respect to such Core Acquired Assets and will be subject to the terms contained in the immediately preceding paragraph.

### **Bid Protections**

Pursuant to the Bidding Procedures Order, the Stalking Horse Purchaser is entitled to the Bid Protections in the amounts set forth in, and in accordance with the terms of, the Stalking Horse Agreement and the Bidding Procedures Order.

Pursuant to the Bidding Procedures Order, except for the Stalking Horse Purchaser, no other party submitting an offer or Bid or a Qualified Bid shall be entitled to any expense reimbursement, break-up fee, termination fee, or similar fee or payment.

### **Sale Hearing**

Each Successful Bid and Backup Bid (or, if no Qualified Bid other than that of the Stalking Horse Purchaser is received, then the Stalking Horse Agreement) will be subject to approval by the Bankruptcy Court. The sale hearing to approve each Successful Bid and any Backup Bid (or, the Stalking Horse Agreement for the Acquired Assets, if no Qualified Bid other than that of the Stalking Horse Purchaser is received) shall take place on January 6, 2016 at 9:00 a.m. (prevailing Central time) before the Bankruptcy Court (the "**Sale Hearing**"). The Sale Hearing may be adjourned or, if there is more than one Successful Bidder, bifurcated by the Debtors, in consultation with the Consultation Parties, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment or bifurcation in open court on the date scheduled for the Sale Hearing, or by filing a notice on the docket of the Debtors' Chapter 11 Cases.

### **Return of Good Faith Deposits**

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by the Debtors, but shall not become property of the Debtors' estates absent further order of the Bankruptcy Court or as expressly provided below. The Good Faith Deposit of any Qualified Bidder that is neither a Successful Bidder nor a Backup Bidder shall be returned to such Qualified Bidder not later than five (5) business days after the Sale Hearing. The Good Faith Deposit of each Backup Bidder, if any, shall be returned to such Backup Bidder no later than seventy-two (72) hours after the closing of the transaction with the relevant Successful Bidder for the assets bid upon by such Backup Bidder. Upon the return of the Good Faith Deposits, their respective owners shall receive any and all interest that will have accrued thereon. If a Successful Bidder timely closes on its winning transaction, its Good Faith Deposit shall be credited towards the applicable purchase price(s). If a Successful Bidder (or Backup Bidder, if applicable) fails to consummate an Alternate Transaction or Supplemental Transaction, as applicable, because of a breach or failure to perform on the part of such Successful Bidder (or Backup Bidder, if applicable), the Debtors will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder (or Backup Bidder, if applicable), and such Good Faith Deposit shall irrevocably become property of the Debtors.

### **The Consultation Parties**

The Debtors shall consult with the Steering Committee; the UCC; the Section 1114 Committee; the UMWA; the USW; BOKF, N.A., in its capacity as Second Lien Notes Trustee; the Credit Agreement Agent; and Indenture Trustee, and each of their respective counsel and advisors

(each, a “**Consultation Party**” and collectively, the “**Consultation Parties**”) as explicitly provided for in the Bidding Procedures; provided, however, that the Debtors shall not be required to consult with any Consultation Party during the Auction process to the extent such Consultation Party has submitted a Bid or has had a Bid submitted on its behalf for so long as such Bid remains open, if the Debtors determine, in their reasonable business judgment, that consulting with such Consultation Party regarding any issue, selection or determination would be likely to have a chilling effect on potential bidding or otherwise be contrary to goal of maximizing value for the Debtors’ estates from the sale process. Subject to the terms of any Orders entered in these Chapter 11 Cases, after consultation with the Consultation Parties, the Debtors shall have the right and obligation to make all decisions regarding Bids and the Auction as provided herein as it determines to be in the best interest of their estates, whether or not Consultation Parties agree with such decisions.

### **Reservation of Rights of the Debtors**

Except as otherwise provided in the Stalking Horse Agreement, the Bidding Procedures or the Bidding Procedures Order, the Debtors further reserve the right as they may reasonably determine to be in the best interest of their estates, after consultation with the Consultation Parties to: (a) determine which Bidder(s) is a Qualified Bidder(s); (b) determine which Bid(s) is a Qualified Bid(s); (c) determine which Qualified Bid is the highest or otherwise best proposal for the Lot(s) and which is the next highest or otherwise best proposal for the Lot(s); (d) reject any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code or (iii) contrary to the best interests of the Debtors and their estates; (e) waive terms and conditions set forth herein with respect to all potential Bidders; (f) impose additional terms and conditions with respect to all potential Bidders; (g) extend the deadlines set forth herein; (h) continue or cancel the Auction and/or Sale Hearing in open court, or by filing a notice on the docket of the Debtors’ Chapter 11 Cases, without further notice to creditors or other parties in interest; and (i) modify the Bidding Procedures and implement additional procedural rules that the Debtors determine, in their business judgment, after consultation with the Consultation Parties, will better promote the goals of the bidding process and discharge the Debtors’ fiduciary duties; provided however that any modification or additions to the Bidding Procedures shall not be inconsistent with the Stalking Horse Agreement, the Bidding Procedures Order or any other Order of the Bankruptcy Court, unless otherwise ordered by the Bankruptcy Court.

## EXHIBIT A TO BIDDING PROCEDURES

### EXHIBIT A

#### LOTS

Lot Number	Assets	General Description
1.	Core Acquired Assets <sup>1</sup>	<ul style="list-style-type: none"> <li>• Alabama Underground and Gas, including Mine No. 4 and Mine No. 7</li> <li>• JWR Mine No. 5</li> <li>• Barge Loadout located in Tuscaloosa County, Alabama (owned by Walter Minerals, Inc.)</li> <li>• Highway 59 Mine</li> <li>• East Brookwood Mine</li> <li>• Blue Creek Coal Sales, Inc.</li> <li>• Black Warrior Methane Corp. Stock/Black Warrior Transmission Corp. Stock</li> <li>• Port of Mobile Lease</li> <li>• Walter Black Warrior Basin LLC</li> <li>• Tuscaloosa Resources, Inc. (Swanns Crossing/Carter Mine)</li> </ul>
2.	Blue Creek Assets	Blue Creek Energy Project
3.	West Virginia Assets	<ul style="list-style-type: none"> <li>• Maple Coal Co., LLC - Eagle Mine and Sycamore Mine, including the primary lease with respect to the mining property that is presently subleased from J. W. Walter, Inc. (which currently holds the primary lease with Pardee Minerals, Inc.)</li> <li>• Atlantic Leaseco, LLC - Gauley Eagle Mines</li> </ul>
4.	Taft Assets	Choctaw, Robbins Road, Reid School, Blue Ridge, Gayosa
5.	Walter Minerals land holdings	Alabama non-mining property interests ( including the Panther

<sup>1</sup> Lot 1 is a non-exhaustive description of the Core Acquired Assets, which is defined as the “Acquired Assets” (as defined in the Stalking Horse Agreement) other than the assets and property comprising the Miscellaneous Real Property Assets, the Blue Creek Assets and if a Walter Coke Election is not made as provided in the Stalking Horse Agreement, the Walter Coke Assets (each, as defined in the Stalking Horse Agreement). Bidders may Bid on the Core Acquired Assets only as a complete package (with certain immaterial or *de minimis* exceptions).

Other than with respect to Lot 1, none of the Lots includes cash.

Bidders may separately Bid on one or more Lots, or any combination thereof, comprising the Miscellaneous Real Property Assets, which are included in this **Exhibit A** as Lots 5-7, the Blue Creek Assets, which are included in this **Exhibit A** as Lot 2, or the Walter Coke Assets, which are included in this **Exhibit A** as Lot 9. In the event of a Successful Bid for one or more of the Lots comprising the Miscellaneous Real Property Assets and/or the Blue Creek Assets, as applicable, such assets shall be designated “Excluded Assets” pursuant to the terms of the Stalking Horse Agreement. For the avoidance of doubt, assets comprising Lots 3, 4, 8 and, to the extent a Walter Coke Election is made, 9 are “Excluded Assets” under the Stalking Horse Agreement and accordingly, may be bid on in one or more Lots, or any combination thereof, on the terms and subject to the conditions set forth in these Bidding Procedures.

<b>Lot Number</b>	<b>Assets</b>	<b>General Description</b>
		and Howton mines)
6.	J.W. Walter, Inc.	West Virginia non-mining property interests (does not include lease from Pardee Minerals, Inc. which will be part of Lot 3)
7.	Walter Land Company	Louisiana non-mining property interests
8.	Select JWR Assets	Mine No. 3, North River, Kellerman Prep Plant
9.	Walter Coke Assets	Walter Coke, Inc.

**EXHIBIT B TO BIDDING PROCEDURES**

**EXHIBIT B**  
**FORM OF CONFIDENTIALITY AGREEMENT**

**WALTER ENERGY, INC.**  
**3000 Riverchase Galleria, Suite 1700**  
**Birmingham, Alabama 35244**

[Name of Potential Bidder] (“[\_\_\_\_\_]”)

[Address]

Attention: [\_\_\_\_\_]

Ladies & Gentlemen:

In connection with [\_\_\_\_\_]'s (the “Recipient”) consideration of a possible sale transaction (a “Transaction”) involving Walter Energy, Inc. and its wholly owned domestic subsidiaries, each a debtor and debtor-in-possession (collectively, the “Company”), the Company may, subject to the terms and conditions of this letter agreement (this “Agreement”) and the Bidding Procedures Order (as defined below), make available to the Recipient certain Confidential Information (as defined below). By countersigning in the space below, the Recipient agrees as follows:

1. Use of Confidential Information.

(a) The Recipient will keep the Confidential Information strictly confidential and use the Confidential Information solely for the purpose of evaluating and negotiating a Transaction and not for any other purpose, including in any way detrimental to the Company, except as permitted herein. The Recipient will treat the Confidential Information in all material respects in the same way that it treats its own non-public proprietary information, but in any event using no less than a reasonable degree of care. The Recipient may disclose the Confidential Information to its Representatives (as defined below) whom the Recipient reasonably determines need to know the information for the purpose of evaluating a Transaction; *provided*, that the Recipient will (a) inform such Representatives receiving the Confidential Information of the confidential nature thereof and cause them to comply with the provisions of this Agreement as if they were a party to this Agreement and had undertaken the same obligations as are undertaken by the Recipient and (b) be responsible and indemnify the Company for any actions taken (or omissions) by the Recipient’s Representatives that would constitute a breach of the terms of this Agreement applicable to the Recipient’s Representatives as if such Representative had been a party to this Agreement. Subject to the immediately following sentence, as used in this Agreement, “Representatives” means, with respect to any party hereto, such party’s affiliates and its and their respective directors, officers, employees, advisors (including attorneys, accountants, investment bankers, financial advisors and specialist consultants) and debt financing sources

(which you will identify to us upon request) of such party and such party's affiliates. Notwithstanding anything to the contrary contained herein, without the prior written consent of the Company, the Recipient agrees that neither the Recipient nor any of its Representatives will disclose any Confidential Information to any actual or potential equity financing sources, joint bidders or co-bidders.

The Recipient agrees that neither it nor any of its Representatives will, without the prior written consent of the Company, directly or indirectly, (i) disclose to any other person, other than its Representatives, (x) the fact that discussions or negotiations may take place, are taking place or have taken place concerning a Transaction or any of the terms or other facts relating thereto, including the status thereof, (y) the existence or the terms of this Agreement or (z) the fact that any party or its Representatives has received or produced any Confidential Information or (ii) make any public statement concerning the Transaction (items (i) and (ii), collectively, "Transaction Information") in each case, other than pursuant to the terms and requirements of the *Order (I) Establishing Bidding Procedures Relating to the Sale(s) of All, or Substantially All, of the Debtors' Assets; (II) Approving Bid Protections; (III) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Approving Form and Manner of the Sale, Cure and Other Notices; (V) Scheduling a Hearing to Consider the Approval of the Sale(s); and (VI) Granting Certain Related Relief* (the "Bidding Procedures Order")<sup>1</sup>; *provided, however*, that any party may disclose Transaction Information to the extent (1) required by, and subject to, Section 4 of this Agreement, (2) pursuant to and in accordance with the Bidding Procedures Order, or (3) it has received written advice from its outside counsel that it is required to make such disclosure in order to avoid violating the federal securities laws and, in the case of clauses (1) or (3), the requirement to make such disclosure does not arise from any breach of this Agreement by such party or its Representatives or as a result of unilateral actions by such party or its Representatives; and, *provided, further*, that, in the case of clause (3), to the extent legally permissible, the Recipient will and will cause its Representatives to give the Company reasonable advance notice of, and a copy of, such intended disclosure, will limit such disclosure to that which is legally required, and will consider, in good faith, including any comments or modifications proposed by the other party concerning the nature and scope of such intended disclosure.

2. Definition of Confidential Information. For purposes of this agreement, the term "Confidential Information" includes (a) all information, whether in oral, visual, written, electronic or other form, concerning the Company and/or its subsidiaries (whether prepared by the Company or its agents or other Representatives, irrespective of the form of communication and when such communication was made, and whether or not marked as confidential) that is or has been furnished to the Recipient by or on behalf of the Company and (b) all notes, memoranda, analyses, reports, forecasts, data, compilations, studies, interpretations, summaries or other documents that are prepared by the Recipient or any of its Representatives that contain, reflect or are based on, in whole or in part, any of the foregoing ("Derived Confidential Information"), *provided, however*, that the term "Confidential Information" does not include information that:

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

- (a) is or becomes generally available to the public other than as a result of a breach of this agreement by the Recipient or its Representatives;
- (b) was within the Recipient's or its Representatives' possession before it was furnished to the Recipient by or on behalf of the Company, if the source of the information was not bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, the Company or any other party with respect to that information;
- (c) is or becomes available to the Recipient or its Representatives on a non-confidential basis from a source other than the Company, if, to the knowledge of the Recipient or its Representatives, the source of the information was not bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, the Company or any other party with respect to that information;
- (d) is independently developed by the Recipient or its Representatives without use of information disclosed by or on behalf of the Company or in breach of this Agreement; or
- (e) is expressly permitted in writing by the Company to be disclosed to third parties on a non-confidential basis.

3. Termination of Discussions. Other than as required in the Bidding Procedures Order, the Company will not be under any contractual or legal obligation of any kind whatsoever to furnish Transaction Information or Confidential Information to the Recipient and reserves the right, in its sole discretion, to terminate providing Transaction Information or Confidential Information at any time. Following the Sale Hearing, if the Recipient is neither a Successful Bidder nor a Backup Bidder, upon the request of the Company, the Recipient will, and will cause its Representatives to, promptly deliver to the Company or destroy all Transaction Information and Confidential Information, including all Derived Confidential Information (and all copies thereof and extracts therefrom). Compliance with the preceding sentence will be certified in writing to the Company by an authorized officer of the Recipient as promptly as practicable upon the delivery of the notice by the Company. Notwithstanding the foregoing, the Recipient and its Representatives may retain copies of the Confidential Information (in electronic or paper form) (i) contained in an automatic archived computer system backup to the extent such copies are not readily available to end users and cannot readily be expunged from such computer system backup (i.e., if doing so would entail more than a de minimis level of effort) or (ii) to the extent that such retention is required to demonstrate compliance with applicable law, rule, regulation or professional standards, or to comply with the Recipient's bona fide document retention policy; *provided, however*, that any such information so retained shall be held in compliance with the terms of this Agreement for so long as such Confidential Information is retained and notwithstanding the termination of this Agreement. Any and all duties and obligations existing under this Agreement shall remain in full force and effect, notwithstanding the delivery or destruction of the Transaction Information and Confidential Information required by this Section 3.

4. Requested or Required Disclosure. If the Recipient or any of its Representatives is requested or required by judicial, regulatory, governmental, administrative or other similar legal proceeding or process (by oral questions, interrogatories, requests for information or documents in a legal proceeding, subpoena, civil investigation, demand or other similar process) to disclose any of the Transaction Information or Confidential Information, the Recipient will and will cause its Representatives to provide the Company to the extent permitted by applicable law, rule or regulation with prompt written notice of the existence, terms and circumstances surrounding such request or requirement so that the Company may seek, at its sole expense, an appropriate protective order and/or, in its sole discretion, waive in writing compliance by the Recipient and/or its Representatives with the applicable provisions of this Agreement. If, and to the extent, in the absence of a protective order or the receipt of a waiver from the Company after a request in writing therefor is made by the Recipient (such request to be made as soon as practicable to allow the Company a reasonable amount of time to respond thereto), the Recipient or any of its Representatives or their respective affiliates are legally required as advised by counsel in writing to disclose Transaction Information or Confidential Information to any judicial, governmental, regulatory, administrative or other similar entity, the Recipient or any of its Representatives or their respective affiliates will limit such disclosure to that which is legally required and, to the extent available, will use commercially reasonable efforts to obtain confidential treatment of such disclosure, and thereafter may disclose such information without liability hereunder. In no event will the Recipient or any of its Representatives oppose action by the Company to obtain a protective order or other relief to prevent the disclosure of the Transaction Information or Confidential Information or to obtain reliable assurance that confidential treatment will be afforded the Transaction Information or Confidential Information and, if the Company seeks such an order or other relief, the Recipient agrees to, and shall cause its Representatives to, cooperate as the Company shall reasonably request at the Company's sole expense. Notwithstanding the restrictions imposed by this paragraph, the Recipient and its Representatives shall be permitted to disclose any Transaction Information or Confidential Information without notice pursuant to an ordinary course audit examination by, or a blanket document request from, a regulator, auditor, bank examiner, self-regulatory organization or similar person that does not specifically identify the Company by name.

5. Securities Laws. The Recipient hereby (a) acknowledges that it is aware (and that its agents or other Representatives who are apprised of the matters contemplated hereby have been or will be advised) that federal and state laws prohibit persons with material non-public information about a company obtained directly or indirectly from that company from purchasing or selling debt or equity securities (including derivative securities) of such company, or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person may purchase or sell such securities, and (b) agrees not to purchase or offer to purchase any securities of the Company while in the possession of any such information.

6. Certain Additional Covenants.

(a) *Standstill*. As of the date of this Agreement, except as previously disclosed to the Company in writing, the Recipient represents that neither it nor any of its affiliates directly or beneficially owns, (i) any of the Company's or its subsidiaries' debt (including any interest in any term loans or revolving credit loans to the Company) or equity securities, (ii) any direct or indirect options, contract or other rights (including, any puts, calls, swaps or other derivative securities) to acquire or dispose of any such securities or otherwise related to the trading price or market value of such securities, or (iii) any economic or voting interests associated with any such securities ((i)-(iii) collectively, the "Company Securities"). Without limiting the generality or effect of any other provision hereof, the Recipient agrees that for a period ending 12 months after the date of this Agreement (such period, the "Assessment Period"), except within the terms of a specific written request from the Company or pursuant to a Transaction Agreement (as hereinafter defined), neither the Recipient nor any of its affiliates nor any of their respective Representatives acting on behalf of the Recipient or such affiliates, will, directly or indirectly (except in the context of negotiations with the Company pursuant to the Bidding Procedures Order):

- (i) propose or publicly announce or otherwise disclose an intent to propose, or enter into or agree to enter into, singly or with any other person:
  - (A) any form of business combination, acquisition or other transaction relating to the Company or any of its affiliates; or
  - (B) any form of restructuring, recapitalization or similar transaction with respect to the Company or any of its affiliates;
- (ii) acquire, or offer, propose or agree to acquire, by purchase or otherwise, record or beneficial ownership or other economic ownership of any Company Securities;
- (iii) make, or in any way participate in, any solicitation of proxies with respect to any Company Securities (including by the execution of action by written consent), become a participant in any election contest with respect to the Company, seek to influence any person with respect to any Company Securities or demand a copy of the Company's list of stockholders or other books and records;
- (iv) act in concert, participate in or encourage the formation of any partnership, syndicate or other group that owns or seeks or offers to acquire beneficial ownership of any Company Securities or that seeks to affect control of the Company or has the purpose of circumventing any provision of this Agreement;
- (v) otherwise act, alone or in concert with others (including by providing financing for another person), to seek or to offer to control or influence, in any manner, the Company's management, board of directors, governing instruments or policies or affairs;
- (vi) request any waiver or amendment to any provision of this Agreement; or

- (vii) make any proposal or other communication designed to, or reasonably likely to, compel the Company to make a public announcement thereof in respect of any matter referred to in this Agreement.

(b) *No Solicitation; No Hire.* For a period of 12 months from the date of this Agreement, neither the Recipient nor any of its affiliates nor any of their respective Representatives acting on behalf of the Recipient or such affiliates, will, directly or indirectly, hire as an employee or engage as a consultant, or solicit to hire as an employee or to engage as a consultant any employee of the Company or any of its affiliates who first became known to the Recipient in connection with the Recipient's consideration of a Transaction, except that the foregoing will not preclude the Recipient or its affiliates or their respective Representatives from engaging in general public advertisement that is not directed at any of such officers or employees.

(c) *Broker; Co-Bidders; Financing Lock-Ups.* The Recipient hereby represents and warrants that it is not acting and will not act as a broker for or representative of any other person in connection with a Transaction or any other transaction with the Company or its affiliates and is considering a Transaction only for its own account and for the account of its affiliates. Unless disclosed and with the prior written consent of the Company, the Recipient will not act as a joint-bidder or co-bidder with any other person with respect to a Transaction or any other transaction with the Company or its affiliates and will not enter into any discussions, negotiations, agreements or understandings, whether written or oral, with any other person (other than any of its Representatives in such capacity) regarding a Transaction or any other transaction with the Company or its affiliates other than the Company and its Representatives and the Recipient's Representatives as permitted hereunder. The Recipient agrees not to, directly or indirectly, enter into any agreement, arrangement or any other understanding, whether written or oral, with any potential financing source or sources that may reasonably be expected to limit, restrict, restrain or otherwise impair, in any manner, directly or indirectly, the ability of such financing source or sources to provide financing or other assistance to any other party in any other possible transaction involving the Company or its affiliates.

7. Coordination of Contacts. The Recipient will not, and will cause its Representatives not to, initiate or maintain contact with any officer, director, employee, security holder, customer, supplier, distributor or other business relationship of the Company or its subsidiaries regarding the business, operations or prospects of the Company, except with the express written consent of a duly authorized officer of the Company (collectively, "Company Authorized Persons"); *provided, however*, that the foregoing shall not restrict the Recipient or its Representatives from contacting any of the aforementioned persons or entities in the ordinary course of business so long as such contact does not relate to a Transaction. Except upon the prior written consent of the Company, all (a) communications regarding a Transaction, participation in a Transaction or the Company's and its subsidiaries' business, operations, prospects or finances, (b) requests for additional information, facility or mine tours or management meetings, and (c) discussions or questions regarding procedures in connection with a Transaction will be submitted or directed to one of the Company Authorized Persons

8. No Warranty or Accuracy; Transaction Agreement. The Recipient understands and agrees that neither the Company nor its affiliates or Representatives (a) makes any

representations or warranties, express or implied, with respect to any of the Transaction Information or Confidential Information or (b) will assume any responsibility or have any liability, including in contract, tort or under federal or state securities laws, to the Recipient or its Representatives resulting from the selection or use of the Transaction Information or Confidential Information by the Recipient or its Representatives. The Recipient further agrees that it is not entitled to rely on the accuracy or completeness of the Transaction Information or Confidential Information and that the Recipient will be entitled to rely solely on such representations and warranties as may be included in any Transaction Agreement (as defined below), if any, subject to such limitations and restrictions as may be contained therein. The Recipient and the Company agree that no contract or agreement providing for a Transaction will be deemed to exist between the Recipient and the Company unless and until the Recipient and the Company execute and deliver a final definitive agreement relating thereto (a “Transaction Agreement”), if any, and the Recipient and the Company hereby waive, in advance, any claims (including breach of contract) in connection with a Transaction unless and until the Recipient and the Company execute and deliver a Transaction Agreement. The Recipient further acknowledges and agrees that the Company reserves the right, in its sole discretion, to reject any and all proposals made by the Recipient or its Representatives with regard to a Transaction and to terminate discussions and negotiations with the Recipient at any time and for any reason (or no reason). The Recipient further understands that the Company will be free to establish and change any process or procedure with respect to a Transaction as the Company in its sole discretion determines (including negotiating with any other interested party and entering into a final definitive agreement relating to a Transaction with any other party without prior notice to the Recipient or any other person).

9. Equitable Relief. It is further understood and agreed that money damage would not be a sufficient remedy for any breach of this Agreement, that the Transaction Information and Confidential Information is valuable and unique and that any disclosure thereof in breach of this Agreement will result in irreparable injury to the Company and that the Company will be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and the Recipient further agrees to waive any requirement for the security or posting of any bond in connection with such remedy. Such remedy will not be the exclusive remedy for breach of this Agreement but will be in addition to all other remedies available at law or equity to the Company. The Recipient agrees that it will not oppose the granting of such relief on the basis that the Company has an adequate remedy at law. In addition, the Recipient agrees that if it is held by any court of competent jurisdiction to be in violation, breach or nonperformance of any of the terms of this Agreement, then it will pay all costs of the Company of such action or suit, including reasonable attorneys’ fees.

10. Termination. Except as otherwise set forth in Section 3, this Agreement will be effective as of the date of this Agreement and will terminate without further action one (1) year after the date of this Agreement. Such termination will not, however, affect the liability of any party for any prior breach of any provision hereof.

11. Third Party Beneficiaries. The Recipient agrees that, except for such parties or as contemplated by Section 15, nothing herein expressed or implied is intended to confer upon or give any rights or remedies to any other person under or by reason of this Agreement.

12. Governing Law. This Agreement will be governed by New York law, without giving effect to the principles of conflict of laws thereof. Each party hereto consents to personal jurisdiction in New York and Alabama and voluntarily submits to the jurisdiction of any State of New York court, Federal court sitting in the State of New York, and the Bankruptcy Court of the Northern District of Alabama, Southern Division, in any action or proceeding with respect to this Agreement and hereby waives unconditionally any objection to the laying of venue in such forum, including any claim of inconvenient forum, and neither party will bring any claim regarding this Agreement in any other court. **ANY RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, ACTION OR PROCEEDING, DIRECTLY OR INDIRECTLY, ARISING OUT OF, OR RELATING TO, THIS AGREEMENT ARE EXPRESSLY AND IRREVOCABLY WAIVED BY THE RECIPIENT AND THE COMPANY.**

13. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement.

14. Certain Definitions. In addition to the terms defined elsewhere herein, for purposes of this Agreement, (a) the term “affiliate” has the meaning set forth in Rule 12b-2 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 and (b) the term “person” means any individual or legal entity, including any corporation, general or limited partnership, limited liability company, trust or other entity or company. The term “including” and any variation thereof shall be deemed to be followed by the words “without limitation” except where the meaning clearly indicates otherwise.

15. Miscellaneous. This Agreement may be modified or waived only by a separate writing duly executed by both parties hereto expressly so modifying or waiving this Agreement. This Agreement contains the entire agreement between the Company and the Recipient concerning the subject matter hereof and supersedes all previous agreements, written or oral, to the extent relating to the exchange, disclosure or treatment of Transaction Information and Confidential Information contemplated hereby or any consideration, investigations, discussions or negotiations of a Transaction. No failure or delay by any party or any of its respective Representatives in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege under this Agreement. If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby. No party hereto may assign its rights or obligations under this Agreement to any person without the prior written consent of the other parties hereto, except that the Company may assign this Agreement to any affiliate or successor or acquirer (including assets) thereof without the Recipient’s prior written consent. This Agreement will be binding upon each party hereto and its respective successors and permitted assigns and will inure to the benefit of, and be enforceable by, each other party hereto and its respective successors and assigns. The Company has retained PJT Partners LP, AlixPartners, LLP, Kekst and Company, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Bradley Arant Boult Cummings LLP and KPMG as its financial, communications, legal and accounting advisors, respectively, in connection with the possible Transaction. By executing this

Agreement, the Recipient irrevocably consents to, and waives all objections to any conflict of interest on the part of PJT Partners LP, AlixPartners, LLP, Kekst and Company, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Bradley Arant Boult Cummings LLP and KPMG that may result from, such representation.

16. Privilege. To the extent that any Confidential Information may include materials subject to the attorney-client privilege, work product doctrine or any other applicable privilege concerning pending or threatened legal proceedings or governmental investigations, the parties hereto understand and agree that they have a commonality of interest with respect to such matters and it is their desire, intention and mutual understanding that the sharing of such material is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. All Confidential Information that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges, this Agreement, and under the joint defense doctrine.

*[Remainder of page intentionally left blank]*

If you are in agreement with the foregoing, please sign and return one copy of this Agreement, which thereupon will constitute our agreement with respect to its subject matter.

Very truly yours,

WALTER ENERGY, INC.

By: \_\_\_\_\_

Name:

Title:

ACCEPTED AND AGREED  
AS OF THE DATE BELOW:

RECIPIENT: [\_\_\_\_\_]

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_, 2015

**EXHIBIT B TO BIDDING PROCEDURES ORDER**

**EXHIBIT B**

**SALE NOTICE**

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

----- X  
In re: : Chapter 11  
: :  
WALTER ENERGY, INC., et al., : Case No. 15-02741-TOM11  
: :  
Debtors.<sup>1</sup> : Jointly Administered  
: :  
----- X

**NOTICE OF BIDDING PROCEDURES, AUCTION DATE, AND SALE HEARING**

**PLEASE TAKE NOTICE THAT:**

On November 5, 2015 Walter Energy, Inc. (the “**Company**”) and its affiliated debtors and debtors in possession in the above-captioned bankruptcy cases (collectively with the Company, the “**Debtors**” or “**Sellers**”) filed their Motion (the “**Motion**”) for (A) an Order (I) Establishing Bidding Procedures for the Sale(s) of All, or Substantially All, of the Debtors’ Assets; (II) Approving Bid Protections; (III) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Approving Form and Manner of the Sale, Cure and Other Notices; and (V) Scheduling an Auction and a Hearing to Consider the Approval of the Sale(s); (B) Order(s) (I) Approving the Sale(s) of the Debtors’ Assets Free and Clear of Claims, Liens and Encumbrances; and (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Certain Related Relief.<sup>2</sup> By the Motion, the Debtors seek, *inter alia*, to sell (the “**Sale(s)**”) all or substantially all of their assets (the “**Subject Assets**”) and to assume and assign certain executory contracts and unexpired leases (the “**Available Contracts**”) to Coal Acquisition LLC (the “**Stalking Horse Purchaser**”) pursuant to a stalking horse asset purchase agreement by and among the Sellers and the Stalking Horse Purchaser (the “**Stalking Horse Agreement**”), subject to higher or otherwise better offers, and/or one or more Successful Bidder(s) at the Auction, as applicable.

On November 25, 2015, pursuant to the Motion, the Court entered an Order (the “**Bidding Procedures Order**”) approving auction and bidding procedures (the “**Bidding**

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

<sup>2</sup> Capitalized terms used herein but not otherwise defined in this notice (the “**Notice**”) shall have the meanings ascribed to them in the Motion.

**Procedures**”) in connection with the proposed Sale(s). A copy of the Motion, the Bidding Procedures Order and the Bidding Procedures can be obtained free of charge on <http://www.kccllc.net/walterenergy>.

The Auction shall take place on **January 5, 2016 at 10:00 a.m. (prevailing Central Time)** at the offices of Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, or such other place and time as the Debtors shall notify all Qualified Bidders, the Consultation Parties and each of their respective counsel and advisors.

A hearing to approve the Sale(s) (the “**Sale Hearing**”), including the assumption and assignment of certain Available Contracts, will be held on **January 6, 2016 at 9:00 a.m. (prevailing Central Time)**, at the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, 1800 Fifth Avenue North Birmingham, Alabama 35203, before the Honorable Tamara O. Mitchell. The Sale Hearing may be adjourned or, if there is more than one Successful Bidder, bifurcated by the Debtors, in consultation with the Consultation Parties, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment or bifurcation in open court on the date scheduled for the Sale Hearing, or by filing a notice on the docket of the Debtors’ Chapter 11 Cases.

Pursuant to the Bidding Procedures Order, any objections to the Sale(s) (“**Sale Objections**”) must be set forth in writing and must state with particularity the grounds for such objections or other statements of position. Sale Objections must be filed with the Clerk and served on (a) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley A. Cornish ([kcornish@paulweiss.com](mailto:kcornish@paulweiss.com)) and Stephen J. Shimshak ([sshimshak@paulweiss.com](mailto:sshimshak@paulweiss.com)), and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Patrick J. Darby ([pdarby@bab.com](mailto:pdarby@bab.com)); (b) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attention: Ira Dizengoff ([idizengoff@akingump.com](mailto:idizengoff@akingump.com)) and Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Attention: James Savin ([jsavin@akingump.com](mailto:jsavin@akingump.com)); (c) counsel to the UCC, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attention: Brett H. Miller ([brettmiller@mofo.com](mailto:brettmiller@mofo.com)), Lorenzo Marinuzzi ([lmartinuzzi@mofo.com](mailto:lmartinuzzi@mofo.com)), and Jennifer L. Marines ([jmarines@mofo.com](mailto:jmarines@mofo.com)); (d) counsel to the Section 1114 Committee, Jenner & Block LLP, 353 North Clark Street, Chicago, IL 60654, Attention: Catherine Steege ([csteege@jenner.com](mailto:csteege@jenner.com)) and Melissa Root ([mroot@jenner.com](mailto:mroot@jenner.com)); and (e) the Bankruptcy Administrator, 1800 5th Avenue North, Birmingham, Alabama 35203, Attention: Tom Corbett ([Thomas\\_Corbett@alnb.uscourts.gov](mailto:Thomas_Corbett@alnb.uscourts.gov)) (collectively, the “**Notice Parties**”) by **4:00 p.m. (prevailing Central Time) on December 17, 2015**; provided that objections to the conduct of the Auction or selection of the Successful Bid(s) or Back-Up Bid(s) shall be in writing, filed with the Clerk, together with proof of service, and served so as to be received by the Notice Parties on or before **thirty (30) minutes prior to the commencement of the Sale Hearing**. UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE COURT AND THE COURT MAY GRANT THE RELIEF REQUESTED WITHOUT FURTHER HEARING AND NOTICE.

This Notice is subject to the fuller terms and conditions of the Motion and the Bidding Procedures Order, which shall control in the event of any conflict, and the Debtors encourage parties-in-interest to review such documents in their entirety.

Dated: \_\_\_\_\_, 2015  
Birmingham, Alabama

BRADLEY ARANT BOULT CUMMINGS LLP

By: \_\_\_\_\_

Patrick Darby

Jay Bender

Cathleen Moore

James Bailey

One Federal Place

1819 Fifth Avenue North

Birmingham, Alabama 35203

Telephone: (205) 521-8000

Email: pdarby@babbc.com, jbender@babbc.com,

ccmoore@babbc.com, jbailey@babbc.com

- and -

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Kelley A. Cornish (*pro hac vice*)

Claudia R. Tobler (*pro hac vice*)

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ctobler@paulweiss.com, ayoun@paulweiss.com,

mrudnick@paulweiss.com

*Counsel to the Debtors and  
Debtors-in-Possession*

**EXHIBIT C TO BIDDING PROCEDURES ORDER**

**EXHIBIT C**

**CURE NOTICE**

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

-----	X	
In re:	:	Chapter 11
	:	
WALTER ENERGY, INC., <u>et al.</u> ,	:	Case No. 15-02741-TOM11
	:	
Debtors. <sup>1</sup>	:	Jointly Administered
	:	
-----	X	

**NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT OF  
CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES  
AND PROPOSED CURE AMOUNTS**

**PLEASE BE ADVISED** that on November 5, 2015 Walter Energy, Inc. (the “**Company**”) and its affiliated debtors and debtors in possession in the above-captioned bankruptcy cases (collectively with the Company, the “**Debtors**” or “**Sellers**”) filed their Motion (the “**Motion**”) for (A) an Order (I) Establishing Bidding Procedures for the Sale(s) of All, or Substantially All, of the Debtors’ Assets; (II) Approving Bid Protections; (III) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Approving Form and Manner of the Sale, Cure and Other Notices; and (V) Scheduling an Auction and a Hearing to Consider the Approval of the Sale(s); (B) Order(s) (I) Approving the Sale(s) of the Debtors’ Assets Free and Clear of Claims, Liens and Encumbrances; and (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Certain Related Relief.<sup>2</sup> By the Motion, the Debtors seek, *inter alia*, to sell (the “**Sale(s)**”) all or substantially all of their assets (the “**Subject Assets**”) and to assume and assign certain executory contracts and unexpired leases (the “**Available Contracts**”) to Coal Acquisition LLC (the “**Stalking Horse Purchaser**”) pursuant to a stalking horse asset purchase agreement by and among the Sellers and the Stalking Horse Purchaser (the “**Stalking Horse Agreement**”), subject to higher or otherwise better offers, and/or one or more Successful Bidder(s) at the Auction, as applicable.

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

<sup>2</sup> Capitalized terms used herein but not otherwise defined in this notice (the “**Notice**”) shall have the meanings ascribed to them in the Motion.

**PLEASE BE FURTHER ADVISED** that, on November 25, 2015, pursuant to the Motion, the Court entered an Order (the “**Bidding Procedures Order**”) approving auction and bidding procedures (the “**Bidding Procedures**”) in connection with the proposed Sale(s). A copy of the Motion, the Bidding Procedures Order and the Bidding Procedures can be obtained free of charge on <http://www.kccllc.net/walterenergy>.

**PLEASE BE FURTHER ADVISED** that a hearing to approve the Sale(s) (the “**Sale Hearing**”), including the assumption and assignment of certain Available Contracts, will be held on **January 6, 2016 at 9:00 a.m. (prevailing Central Time)**, at the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, 1800 Fifth Avenue North Birmingham, Alabama 35203, before the Honorable Tamara O. Mitchell. The Sale Hearing may be adjourned or, if there is more than one Successful Bidder, bifurcated by the Debtors, in consultation with the Consultation Parties, from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment or bifurcation in open court on the date scheduled for the Sale Hearing, or by filing a notice on the docket of the Debtors’ Chapter 11 Cases.

**PLEASE BE FURTHER ADVISED** that pursuant to the Motion, the Debtors may assume and assign the Available Contract(s) identified on Exhibit A (the “**Subject Contract(s)**”) to the Successful Bidder(s) at the Auction.<sup>3</sup> The cure amount (the “**Cure Amount**”), if any, the Debtors believe is required to satisfy all amounts and obligations due and owing under each Subject Contract by the Debtors, including any monetary defaults and compensation for pecuniary losses, is listed on Exhibit A (the “**Cure Schedule**”).

**PLEASE BE FURTHER ADVISED** that the deadline to file an objection to the assumption and assignment of the Subject Contract(s) and the Cure Amount(s) for such Subject Contract(s) (together, “**Cure Objections**”) is **December 17, 2015 at 4:00 p.m. (prevailing Central Time)** (the “**Cure Objection Deadline**”). Cure Objections, if any, must be filed with the Court and served upon (a) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley A. Cornish ([kcornish@paulweiss.com](mailto:kcornish@paulweiss.com)) and Stephen J. Shimshak ([sshimshak@paulweiss.com](mailto:sshimshak@paulweiss.com)), and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Patrick J. Darby ([pdarby@babco.com](mailto:pdarby@babco.com)); (b) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attention: Ira Dizengoff ([idizengoff@akingump.com](mailto:idizengoff@akingump.com)) and Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Attention: James Savin ([jsavin@akingump.com](mailto:jsavin@akingump.com)); (c) counsel to the UCC, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attention: Brett H. Miller ([brettmiller@mofo.com](mailto:brettmiller@mofo.com)), Lorenzo Marinuzzi ([lmarinuzzi@mofo.com](mailto:lmarinuzzi@mofo.com)), and Jennifer L. Marines ([jmarines@mofo.com](mailto:jmarines@mofo.com)); (d) counsel to the Section 1114 Committee, Jenner & Block LLP, 353 North Clark Street, Chicago, IL 60654, Attention: Catherine Steege ([csteege@jenner.com](mailto:csteege@jenner.com)) and Melissa Root ([mroot@jenner.com](mailto:mroot@jenner.com)); and (e) the Bankruptcy Administrator, 1800 5th Avenue North,

<sup>3</sup> The Debtors may modify the list of Available Contracts that will be assumed and assigned in connection with the Sale(s). In addition, the inclusion of any contract or agreement on Exhibit A shall not constitute an admission by the Debtors that any such Subject Contract is an executory contract or unexpired lease within the meaning of Bankruptcy Code section 365 and the Debtors reserve all rights with respect thereto.

Birmingham, Alabama 35203, Attention: Tom Corbett ([Thomas\\_Corbett@alnba.uscourts.gov](mailto:Thomas_Corbett@alnba.uscourts.gov)) (collectively, the “**Notice Parties**”).

**PLEASE BE FURTHER ADVISED** that the Cure Objection must state (i) the basis for the objection and (ii) with specificity, what Cure Amount(s) the party to the Available Contract(s) believes is required (in all cases with appropriate documentation in support thereof).

**PLEASE BE FURTHER ADVISED** that any objection solely to the Cure Amount(s) may not prevent or delay the Debtors’ assumption and assignment of the Subject Contract(s). If a non-Debtor counterparty (a “**Non-Debtor Counterparty**”) objects solely to Cure Amount(s), the Debtors may, with the consent of the Successful Bidder(s), hold the claimed Cure Amount(s) in reserve pending further order of the Court or mutual agreement of the parties. So long as Cure Amount(s) are held in reserve, and there are no other unresolved objections to assumption and assignment of the applicable Subject Contract(s), the Debtors can, without further delay, assume and assign such Subject Contract(s) to the applicable Successful Bidder(s). Under such circumstances, the objecting Non-Debtor Counterparty’s recourse is limited to the funds held in reserve.

**PLEASE BE FURTHER ADVISED** that any objections to the adequate assurance of future performance by the Stalking Horse Purchaser and/or another Successful Bidder(s) under the applicable Subject Contract(s) must be filed with the Court and served on the Notice Parties and the applicable Successful Bidder(s) so that such objection is received on or before **thirty (30) minutes prior to the commencement of the Sale Hearing** (the “**Adequate Assurance Objection Deadline**”).

**PLEASE BE FURTHER ADVISED** that unless a Cure Objection or an objection to adequate assurance of future performance, as applicable, is filed and served by a Non-Debtor Counterparty to any Subject Contract by the Cure Objection Deadline or the Adequate Assurance Objection Deadline, as applicable, such Non-Debtor Counterparty shall be (i) deemed to have waived and released any right to assert a Cure Objection and to have otherwise consented to the assignment of such Subject Contract, (ii) forever barred from objecting to the assumption and assignment of such Subject Contract or the failure of the Successful Bidder(s) to provide adequate assurance of future performance and (iii) forever barred and estopped from asserting or claiming any Cure Amount, other than the Cure Amount listed on the Cure Schedule.

**PLEASE BE FURTHER ADVISED** that the hearings with respect to Cure Objection(s) or objection(s) to the adequate assurance of future performance may be held (a) at the Sale Hearing, or (b) at such other date as the Court may designate.

**PLEASE BE FURTHER ADVISED** that all requests for information concerning the Sale(s) should be in writing and directed to counsel to the Debtors at the address referenced below.

Dated: \_\_\_\_\_, 2015  
Birmingham, Alabama

BRADLEY ARANT BOULT CUMMINGS LLP

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Cathleen Moore  
James Bailey  
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*Counsel to the Debtors and  
Debtors-in-Possession*

**Exhibit A**

**Cure Schedule**

<b><u>Name of Subject Contract</u></b>	<b><u>Name of Non-Debtor Counterparty</u></b>	<b><u>Cure Amount</u></b>

# Notice Recipients

District/Off: 1126-2  
Case: 15-02741-TOM11

User: scallies  
Form ID: pdf000

Date Created: 11/25/2015  
Total: 199

## Recipients submitted to the BNC (Bankruptcy Noticing Center) without an address:

cr Delaware Trust Company, as Indenture Trustee  
aty Lisa Beckerman

TOTAL: 2

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