

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In re:

Peabody Energy Corporation, et al.,  
  
Debtors.

Case No. 16-42529-399  
CHAPTER 11

Jointly Administered

Related to Docket No. 1823

**ORDER (I) APPROVING SECOND AMENDED DISCLOSURE STATEMENT,  
(II) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION  
OF VOTES TO ACCEPT OR REJECT SECOND AMENDED JOINT PLAN OF  
REORGANIZATION, (III) SCHEDULING HEARING ON CONFIRMATION  
OF SECOND AMENDED JOINT PLAN OF REORGANIZATION AND  
(IV) APPROVING RELATED NOTICE PROCEDURES**

This matter coming before the Court on the Motion of the Debtors and Debtors in Possession for an Order (I) Approving Second Amended Disclosure Statement, (II) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject Second Amended Joint Plan of Reorganization, (III) Scheduling Hearing on Confirmation of Second Amended Joint Plan of Reorganization and (IV) Approving Related Notice Procedures (the "Motion");<sup>1</sup> the Court having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 81-9.01(B)(1) of the Local Rules of the United States District Court for the Eastern District of Missouri; (ii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iv) the Debtors having represented that adequate and proper notice of the Motion has been given and that no other or further notice need be given; (v)

<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the Motion or the applicable exhibits to the Motion.



the relief requested in this Motion is in the best interests of the Debtors and their estates and creditors; (vi) the Disclosure Statement Notice is adequate under the circumstances and in compliance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules; (vii) the Second Amended Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code; (viii) the Solicitation Procedures provide a fair and equitable voting process and fully comply with the applicable requirements of the Bankruptcy Code, Bankruptcy Rules 2002, 3017 and 3018, and the Local Bankruptcy Rules; (ix) the Confirmation Procedures fully comply with the applicable requirements of the Bankruptcy Code, Bankruptcy Rules 2002, 3017 and 3020, and the Local Bankruptcy Rules; and (x) the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

ORDERED that, pursuant to sections 105, 1125, 1126 and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002, 3017, 3018 and 3020 and Local Bankruptcy Rules 2002-1 and 3017, the Motion is GRANTED in that:

1. The Second Amended Disclosure Statement is approved, pursuant to section 1125 of the Bankruptcy Code.
2. The Disclosure Statement Notice substantially in the form attached to the Motion as Exhibit A is hereby approved.
3. The Solicitation Procedures, the Ballots, the Voting Deadline, the Solicitation Packages, the Record Date of January 26, 2017 for Plan voting, the Tabulation Rules (as reflected in Exhibit A to this Order), the Notice of Non-Voting Status, the Noteholder Solicitation Procedures and other solicitation procedures described in the Motion and the Exhibits thereto (and the form and manner of notice of each of the foregoing, as may be

described in the Motion and on the Exhibits thereto) are approved in substantially the form attached to the Motion.

4. The Solicitation Packages may be in either paper or CD-ROM format, at the Debtors' discretion.

5. The Confirmation Procedures and the Confirmation Hearing Notice (in substantially the form attached to the Motion) (and the form and manner of notice thereof, as may be described in the Motion and on the Exhibits thereto) are approved. Without limiting the foregoing, the Debtors are authorized to publish a notice of the Confirmation Hearing, the Confirmation Objection Deadline and the Voting Deadline (which notice may be substantially in the form of the Confirmation Hearing Notice) by February 2, 2017, or such other day that is not less than twenty-eight (28) days before the commencement of the Confirmation Hearing, once in the *St. Louis Dispatch* and in the national editions of *The Wall Street Journal* and *USA Today*. Additionally, the Debtors shall publish the Confirmation Hearing Notice on the Debtors' Document Website.

6. The Confirmation Hearing is scheduled to be held before the Honorable Barry S. Schermer, United States Bankruptcy Judge, in the United States Courthouse, Thomas F. Eagleton Federal Building, 5<sup>th</sup> Floor, North Courtroom, 111 S. 10<sup>th</sup> Street, St. Louis, Missouri 63102 on March 16, 2017, at 10:00 a.m., Central Time. The Confirmation Hearing may be continued from time to time by the Court without further notice other than the announcement of the adjourned date at the Confirmation Hearing or any continued hearing.

7. Objections to confirmation of the Plan, if any, must: (a) be in writing; (b) state the name and address of the objecting party and the nature of the Claim or Interest of such party; (c) state with particularity the basis and nature of any objection to the confirmation of

the Plan; and (d) be filed with the Court and served on the following parties so that they are actually received no later than March 9, 2017 or such other date established by the Debtors that is at least twenty-eight (28) days after the commencement of the solicitation period:

- the Debtors, c/o Peabody Energy Corporate Headquarters, 701 Market Street, St. Louis, Missouri 63101-1826 (Attn: Scott T. Jarboe, Esq.);
- counsel to the Debtors, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Heather Lennox, Esq.) and Jones Day, 51 Louisiana Avenue, N.W., Washington, D.C. 20002-2113 (Attn: Amy Edgy, Esq. and Daniel T. Moss, Esq.); Armstrong Teasdale LLP, 7700 Forsyth Boulevard, Suite 1800, St. Louis, Missouri 63105 (Attn: Steven N. Cousins, Esq. and Susan K. Ehlers, Esq.);
- the Office of the United States Trustee, 111 South 10<sup>th</sup> Street, Suite 6.353, St. Louis, Missouri 63102 (Attn: Paul Randolph, Esq. and Leonora S. Long, Esq.);
- counsel to the Creditors' Committee, Morrison & Foerster (Attn: Lorenzo Marinuzzi, Esq., Jonathan I. Levine, Esq., Jennifer L. Marines, Esq., and Daniel J. Harris, Esq.); Spencer Fane LLP (Attn: Ryan C. Hardy, Esq., Sherry K. Dreisewerd, Esq., Eric C. Peterson, Esq.);
- counsel to Citibank, N.A. as Administrative Agent for the First Lien Agent of the First Lien Credit Agreement, Davis Polk & Wardwell LLP (Attn: Damian S. Schaible, Esq., Darren Klein, Esq. and Angela M. Libby, Esq.); Bryan Cave LLP (Attn: Lloyd A. Palans, Esq., Brian C. Walsh, Esq. and Laura Uberti Hughes, Esq.);
- counsel to certain members of the ad hoc group of Second Lien Noteholders (the "Ad Hoc Group of Second Lien Noteholders"), Skadden, Arps, Slate, Meagher & Flom LLP (Attn: Jay M. Goffman, Esq. and Shana A. Elberg, Esq.);
- counsel to certain members of the *Ad Hoc* Group of Second Lien Noteholders, Stinson Leonard Street LLP (Attn: John G. Young, Jr.);
- counsel to certain members of the *Ad Hoc* Group of Second Lien Noteholders, Woods, Fuller, Shultz & Smith P.C. (Attn: Jordan J. Feist);
- counsel to certain members of the ad hoc group of Unsecured Senior Noteholders (the "Ad Hoc Group of Unsecured Senior Noteholders"), Kramer Levin Naftalis & Frankel LLP (Attn: Kenneth H. Eckstein, Esq., P. Bradley O'Neill, Esq. Stephen D. Zide, Esq. and Andrew M. Dove, Esq.);

- counsel to certain members of the *Ad Hoc* Group of Unsecured Senior Noteholders, Kirkland & Ellis LLP (Attn: Stephen E. Hessler, Esq., Brian Ford, Esq. and Melissa N. Koss, Esq.);
- counsel to certain members of the *Ad Hoc* Group of Unsecured Senior Noteholders, Doster, Ullom & Boyle, LLC (Attn: Gregory D. Willard, Esq., John G. Boyle, Esq. and Alec L. Moen, Esq.);
- counsel to Wilmington Savings Fund Society, FSB as trustee and collateral agent for the Second Lien Notes, Brown Rudnick LLP (Attn: Howard Steel, Esq.); Desai Eggman Mason LLC (Attn: Spencer P. Desai, Esq., Danielle Suberi, Esq. and Thomas H. Riske, Esq.);
- counsel to Wilmington Trust Company as Indenture Trustee for the Unsecured Senior Notes, Foley & Lardner LLP (Attn: Douglas E. Spelfogel, Esq., Richard J. Bernard, Esq. and Mark L. Prager, Esq.); and
- counsel to the 2066 Subordinated Indenture Trustee, Emmet, Marvin and Martin, LLP (Attn: Thomas A. Pitta, Esq. and Edward P. Zujkowski, Esq.); The Sader Law Firm (Attn: Brad McCormack, Esq.).

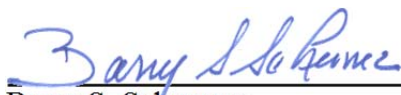
8. Unless otherwise permitted or directed by the Court, the Debtors shall file the Tabulation Affidavit no later than three (3) days prior to the commencement of the Confirmation Hearing.

9. Notwithstanding any Rule of the Federal Rule of Bankruptcy Procedure or Local Rule of Bankruptcy Procedure for the United States Bankruptcy Court for the Eastern District of Missouri that might otherwise delay the effectiveness of this Order, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

10. No later than two (2) days after the date this Order is entered on the docket, the Claims and Noticing Agent is directed to serve a copy of the Order and is directed to file a certificate of service no later than twenty-four (24) hours after service.

DATED: January 27, 2017  
St. Louis, Missouri

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Barry S. Schermer  
United States Bankruptcy Judge

Submitted by:

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Susan K. Ehlers  
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**Exhibit A**

**PROPOSED TABULATION RULES FOR  
CLAIMS ENTITLED TO VOTE ON THE PLAN**

1. Unless otherwise provided in the Tabulation Rules described below, a Claim will be deemed temporarily allowed for voting purposes in an amount equal to the full stated amount claimed by the holder of such Claim in any proof of Claim filed by the applicable bar date (or otherwise deemed timely filed under applicable law) to the extent that the proof of Claim specifies a fixed or liquidated amount. Any additional contingent or unliquidated amounts will be temporarily disallowed for voting purposes.

2. If a Claim is deemed allowed in accordance with the Plan, such Claim will be temporarily allowed for voting purposes in the deemed allowed amount set forth in the Plan.

3. If a Claim for which a proof of Claim has been timely filed is (a) wholly contingent, unliquidated or disputed (upon a reasonable review of the claim and the supporting documentation by the Debtors or the Claims and Balloting Agent) and/or (b) does not otherwise specify a fixed or liquidated amount, such wholly contingent, unliquidated or disputed Claim will be temporarily allowed for voting purposes in the amount of \$1.00.

4. For purposes of voting on the Plan only, and with a full reservation of rights by all parties: (A) the First Lien Lender Claims that are not Claims under Swap Contracts (as defined in the First Lien Credit Agreement (as defined in the Plan)) shall be allowed in the principal amount of obligations owed to each holder as of January 26, 2017 and (B) the First Lien Lender Claims that are Claims under Swap Contracts (as defined in the First Lien Credit Agreement (as defined in the Plan)) shall be allowed in the termination amounts set forth in the calculation statements submitted to the Debtors.

5. If a Claim has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, or by an agreement between the Debtors and the creditor estimating or



otherwise allowing a Claim for voting purposes (an "Estimation Agreement"), such Claim will be temporarily allowed for voting purposes in the amount so estimated or allowed by the Bankruptcy Court. The following shall apply to Estimation Agreements:

- a. With respect to any Estimation Agreement, the Debtors must file a notice of such agreement (an "Estimation Notice") with the Bankruptcy Court and serve such Estimation Notice on the affected creditor and the following parties (collectively, the "Notice Parties"):
  - i. the Office of the United States Trustee, 111 South 10th Street, Suite 6.353, St. Louis, Missouri 63102 (Attn: Paul Randolph, Esq. and Leonora S. Long, Esq.);
  - ii. counsel to the Creditors' Committee, Morrison & Foerster (Attn: Lorenzo Marinuzzi, Esq., Jonathan I. Levine, Esq., Jennifer L. Marines, Esq., Melissa A. Hager, Esq. and Daniel J. Harris, Esq.); Spencer Fane LLP (Attn: Sherry K. Dreisewerd, Esq., Eric C. Peterson, Esq., Scott J. Goldstein, Esq., Lisa A. Epps, Esq. and Andrea M. Chase, Esq.);
  - iii. counsel to Citibank, N.A. as Administrative Agent for the First Lien Agent for the First Lien Credit Agreement, Davis Polk & Wardwell LLP (Attn: Damian S. Schaible, Esq., Angela M. Libby, Esq., Darren Klein, Esq., James McClammy, Esq. and Benjamin Kaminetzky, Esq.); Bryan Cave LLP (Attn: Lloyd A. Palans, Esq.);
  - iv. counsel to certain members of the ad hoc group of Second Lien Noteholders (the "Ad Hoc Group of Second Lien Noteholders"), Skadden, Arps, Slate, Meagher & Flom LLP (Attn: Jay M. Goffman, Esq. and Shana A. Elberg, Esq.);
  - v. counsel to certain members of the *Ad Hoc* Group of Second Lien Noteholders, Stinson Leonard Street LLP (Attn: John G. Young, Jr.);
  - vi. counsel to certain members of the *Ad Hoc* Group of Second Lien Noteholders, Woods, Fuller, Shultz & Smith P.C. (Attn: Jordan J. Feist);
  - vii. counsel to the ad hoc group of Unsecured Senior Noteholders (the "Ad Hoc Group of Unsecured Senior Noteholders"), Kramer Levin Naftalis & Frankel LLP (Attn: Kenneth H. Eckstein, Esq., Andrew M. Dove, Esq. and Stephen D. Zide, Esq.);
  - viii. counsel to certain members of the *Ad Hoc* Group of Unsecured Senior Noteholders, Kirkland & Ellis LLP (Attn: Stephen E. Hessler, Esq. and Melissa N. Koss, Esq.);

- ix. counsel to certain members of the *Ad Hoc* Group of Unsecured Senior Noteholders, Doster, Ullom & Boyle, LLC (Attn: Gregory D. Willard, Esq., John G. Boyle, Esq. and Alec L. Moen, Esq.);
  - x. counsel to Wilmington Savings Fund Society, FSB as trustee and collateral agent for the Second Lien Notes, Brown Rudnick LLP (Attn: Howard Steel, Esq.); Desai Eggman Mason LLC (Attn: Spencer P. Desai, Esq., Danielle Suberi, Esq. and Thomas H. Riske, Esq.);
  - xi. counsel to Wilmington Trust Company as Indenture Trustee for the Unsecured Senior Notes, Foley & Lardner LLP (Attn: Douglas E. Spelfogel, Esq., Richard J. Bernard, Esq. and Mark L. Prager, Esq.); and
  - xii. all other parties in interest that have filed requests for notice pursuant to Bankruptcy Rule 2002 in the Debtors' chapter 11 cases.
- b. Each Estimation Notice: (a) may address a single Claim or multiple Claims; (b) shall describe the pertinent terms of the Estimation Agreement between the parties (including the amount(s) in which the creditor's Claim(s) will be temporarily allowed for voting purposes); and (c) provide that the Notice Parties may file written objections to the Estimation Agreement described therein (an "Estimation Objection") and serve such objection on the Debtors and the Notice Parties no later than five (5) days after service of the Estimation Notice (the "Estimation Objection Deadline").
  - c. If no Estimation Objection is filed and served by the Estimation Objection Deadline with respect to a particular Estimation Agreement, the Claim(s) addressed in the relevant Estimation Agreement will be temporarily allowed for voting purposes as set forth in the Estimation Agreement without further action of the parties or the Bankruptcy Court.
  - d. If an Estimation Objection is timely filed and served, and such Estimation Objection is not resolved consensually by the parties, the Claim(s) addressed in the relevant Estimation Agreement will not be temporarily allowed for voting purposes as set forth therein unless approved by an order of the Bankruptcy Court. The Debtors may schedule any such Estimation Objection and the related Estimation Agreement for hearing at any omnibus hearing before the Bankruptcy Court on not less than five (5) business days' notice. Along with any notice of hearing on a contested Estimation Agreement, the Debtors may file additional briefing in support of the agreement (a "Supplemental Brief"), and parties that filed Estimation Objections will have three (3) business days from the service of the Supplemental Brief to file with the Bankruptcy Court and serve on the Debtors a response to the Supplemental Brief.

6. If a Claim is (a) either (i) not listed in the Schedules or (ii) listed in the Schedules as contingent, unliquidated or disputed; (b) a proof of Claim was not timely filed or deemed timely filed by an order of the Bankruptcy Court prior to the Voting Deadline; or (c) a Claim has been "disallowed" by agreement of the Claim holder or order of the Court at any time before the Voting Deadline, such Claim shall also be disallowed for voting purposes, unless the Debtors have consented otherwise in writing, pursuant to Bankruptcy Rule 3003(c)(2).<sup>1</sup>

7. Without further order of this Court, a Ballot shall not be counted if it (a) was actually received by the Claims and Balloting Agent after the Voting Deadline, unless the Debtors granted an extension of the Voting Deadline for such Ballot; (b) was properly and timely returned to the Claims and Balloting Agent but does not indicate acceptance or rejection of the Plan, or indicates both an acceptance and rejection of the Plan; (c) is (i) illegible, (ii) unsigned or nonoriginally signed or (iii) contains insufficient information to permit the identification of the claimant or interest holder, except as otherwise set forth herein; provided, however, that the Ballots not counted shall be documented in the voting results filed with the Court.

8. Without further order of this Court, except as otherwise set forth herein, any Ballot sent directly to any of the Debtors, their agents (other than the Claims and Balloting Agent) or the Debtors' financial or legal advisors or to any party other than the Claims and Balloting Agent shall not be counted.

9. If the Debtors have filed and served an objection to a Claim on or before February 2, 2017, such Claim will be temporarily allowed or disallowed for voting purposes in

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<sup>1</sup> Bankruptcy Rule 3003(c)(2) provides that "[a]ny creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution." Fed. R. Bankr. P. 3003(c)(2).

accordance with the relief sought in the objection. If an objection does not identify the proposed amount of the relevant Claim (e.g., if the Claim remains subject to estimation or liquidation), then such Claim will be temporarily allowed in the amount of \$1.00.

10. If the automatic stay has been modified by an order of the Bankruptcy Court at least fourteen (14) days before the Voting Deadline to permit a Claim to be adjudicated, in whole or in part, in another court (including an appellate court or administrative proceeding) or arbitration, such Claim will be temporarily allowed in the liquidated, noncontingent and undisputed amount, if any, identified in the Schedules on account of such Claim, or, if such Claim is listed in the Schedules as contingent, unliquidated or disputed, the Claim will be temporarily allowed in the amount of \$1.00.

11. With respect to Notes, holders of such Notes as of the Record Date shall be solicited and cast votes on the Plan in accordance with customary procedures for soliciting and tabulating votes of public securities holders. For the avoidance of doubt, any proofs of claim filed by individual Noteholders on their own behalf on account of ownership of the Notes, other than proofs of claim filed by Individual Record Holders, shall be disallowed for voting purposes because each Master Ballot Agent shall vote on behalf of individual Noteholders. In addition, any proofs of claim filed by individual equity holders on account of their equity ownership shall be disallowed for voting purposes, and such equity holders will be served with a Notice of Non-Voting Status in accordance with customary procedures for noticing public securities holders.

12. If a Claim holder identifies a Claim amount on its Ballot that is less than the amount otherwise calculated in accordance with the Tabulation Rules, the Claim will be temporarily allowed for voting purposes in the lesser amount identified on such Ballot;

provided, however, that those Ballots that were temporarily allowed in the lesser amount identified on such Ballot shall be documented in the voting results filed with the Court.

13. As to any creditor filing a motion pursuant to Bankruptcy Rule 3018(a), such creditor's Ballot shall not be counted unless temporarily allowed by the Court for voting purposes after notice and a hearing.

14. If no votes to accept or reject the Plan are received for a particular Class that is entitled to vote on the Plan, such Class shall be deemed to have voted to accept the Plan.

15. If a proof of claim has been amended by a later filed proof of claim, the later filed amending claim shall be entitled to vote in a manner consistent with the Tabulation Rules, and the earlier filed Claim shall be disallowed for voting purposes, regardless of whether the Debtors have objected to the amended Claim; provided, however, that any earlier filed Claims that are disallowed for voting purposes shall be documented in the voting results filed with the Court.

16. For purposes of the numerosity and amount requirements of section 1126(c) of the Bankruptcy Code, separate Claims held by a single creditor in a particular Class at a particular Debtor Group shall be aggregated (based on the reasonable efforts of the Debtors and the Claims and Balloting Agent) as if such creditor held one Claim in such Class at the particular Debtor Group, and the votes related to such Claims shall be treated as a single vote to accept or reject the Plan (as applicable) as to the applicable Debtor Group; provided, however, that separate Claims held by a single creditor in Class 6B shall not be aggregated within such Class, and, with respect to a single creditor that holds separate Claims in Class 6B: (a) such single creditor shall receive separate Ballots for each such separate Claim and (b) each such separate Ballot shall count as a single vote to accept or reject the Plan (as applicable) as to the applicable Debtor Group.

17. The Classes of Claims against or Interests in a Debtor belonging to a Debtor Group consisting of more than one Debtor shall each be deemed to be a single Class against all of the Debtors in that Debtor Group for all purposes under the Bankruptcy Code, including voting, Confirmation and distribution purposes. To the extent a holder has a Claim that may be asserted against more than one Debtor in a Debtor Group, the vote of such holder in connection with such Claims shall be counted as a vote of such Claims in respect of such Claims against each Debtor in such Debtor Group. For consistency, similarly designated Classes of Claims and Interests are assigned the same number across each of the Debtor Groups. Any non-sequential enumeration of the Classes is intentional to maintain consistency. Notwithstanding these organizing principles for administrative convenience, the Plan is a separate plan of reorganization for each Debtor and no substantive consolidation is intended.

18. If, after a reasonable review, the Debtors or the Claims and Balloting Agent determine that a creditor has filed duplicative proofs of Claim (irrespective of whether such duplicative Claims are filed against a single Debtor or multiple Debtors), only one such proof of Claim will be used for the purposes of these Tabulation Rules regardless of whether the Debtors have objected to such duplicative proofs of Claim; provided, however, that any duplicative proofs of claim that are not used for the purposes of these Tabulation Rules shall be documented in the voting results filed with the Court.

19. If any portion of a single Claim has been transferred to a transferee, all holders of any portion of such single Claim will be (a) treated as a single creditor for purposes of the numerosity requirements in section 1126(c) of the Bankruptcy Code (and for the other voting and solicitation procedures set forth herein) and (b) required to vote every portion of such Claim collectively to either accept or reject the Plan.

20. If a Claim is partially liquidated and partially unliquidated and (a) no objection to it has been filed by the Voting Deadline and (b) no order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such Claim for voting purposes in an amount greater than \$1.00 has been entered by the Court, in each case before the Voting Deadline, such Claim shall be allowed for voting purposes only in the liquidated amount.

21. If a creditor casts more than one Ballot voting the same Claim before the Voting Deadline, the last properly-executed Ballot received before the Voting Deadline will be deemed to reflect the voter's intent and, thus, will supersede any prior Ballots; provided, however, that any superseded Ballots shall be documented in the voting results filed with the Court.<sup>2</sup> If a Beneficial Owner submits more than one Beneficial Owner Ballot to a Master Ballot Agent, (a) the last properly-executed Beneficial Owner Ballot received before the submission deadline imposed by the Master Ballot Agent will be deemed to supersede any prior Beneficial Owner Ballot submitted by the Beneficial Owner and (b) the Master Ballot Agent will complete the Master Ballot accordingly.

22. In tabulating the Ballots, the Debtors request that the following procedures be utilized: (a) any Ballot that is properly completed, executed and timely returned to the Claims and Balloting Agent but does not indicate an acceptance or rejection of the Plan, or indicates both an acceptance and rejection of the Plan, will not be counted; (b) creditors will be required to vote all of their Claims, as the case may be, within a particular Class at a Debtor Group under the Plan either to accept or reject the Plan and may not split their votes; and (c) where any portion of a single Claim has been transferred to a transferee before the Record Date, all holders of any

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<sup>2</sup> Likewise, if a Beneficial Owner submits more than one Beneficial Owner Ballot to a Master Ballot Agent, (a) the last properly-executed Beneficial Owner Ballot received before the submission deadline imposed by the Master Ballot Agent will be deemed to supersede any prior Beneficial Owner Ballot submitted by the Beneficial Owner and (b) the Master Ballot Agent will complete the Master Ballot accordingly.

portion of such single Claim will be (i) treated as a single creditor for purposes of the numerosity requirements in section 1126(c) of the Bankruptcy Code (and for the other voting and solicitation procedures set forth herein) and (ii) required to vote every portion of such Claim collectively to either accept or reject the Plan. In the event that (a) a Ballot, (b) a group of Ballots within a Plan Debtor Group received from a single creditor or (c) a group of Ballots received from the various holders of multiple portions of a single Claim partially rejects and partially accepts the Plan, such Ballots shall not be counted; provided, however, that any Ballots not counted shall be documented in the voting results filed with the Court.

23. Any proof of Claim not asserted in U.S. dollars will be temporarily allowed in the amount of \$1.00 for voting purposes only.

24. The Debtors, in their discretion and unless otherwise ordered by the Court, may waive any defect in any Ballot at any time, either before or after the close of voting and without notice. Except as provided below, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline, the Debtors may, in their discretion, reject such Ballot as invalid and, therefore, decline to utilize it in connection with confirmation of the Plan by the Court; provided, however, that such invalid Ballots shall be documented in the voting results filed with the Court.

25. Unless otherwise ordered by the Court, the Debtors reserve the absolute right to reject any and all Ballots not proper in form, the acceptance of which would, in the opinion of the Debtors, not be in accordance with the provisions of the Bankruptcy Code; provided, however, that such invalid Ballots shall be documented in the voting results filed with the Court.



26. The following additional procedures shall apply with respect to tabulating Master Ballots:

- a. All Master Ballot Agents will be required to retain the Beneficial Owner Ballots cast by their respective Beneficial Owners for inspection for a period of one year following the Voting Deadline.
- b. Votes cast by holders of public securities through Master Ballot Agents will be applied to the applicable positions held by such Master Ballot Agents as of the Record Date, as evidenced by the record and depository listings. Votes submitted by a Master Ballot Agent shall not be counted in excess of the amount of public securities held by such Master Ballot Agent as of the Record Date.
- c. If conflicting votes or "over-votes" are submitted by a Master Ballot Agent, the Claims and Balloting Agent shall use reasonable efforts to reconcile discrepancies with such Master Ballot Agent. The submission of a Beneficial Owner Ballot or a Master Ballot reflecting an aggregate amount of voting Claims that exceeds the record position as identified on record and depository listings, respectively, is referred to herein as an "over-vote."
- d. To the extent that an over-vote or a conflicting vote on a Master Ballot is not reconciled prior to the Voting Deadline, the Claims and Balloting Agent (i) will calculate the respective percentage of the total stated amount of the Master Ballot voted by each respective Beneficial Owner, (ii) will multiply such percentage for each Beneficial Owner by the amount of aggregate holdings for the applicable Master Ballot Agent identified on the applicable Master Ballot Agent Register and (iii) will tabulate votes to accept or reject the Plan based on the result of this calculation. The Debtors reserve the right to challenge this calculation in any given case by seeking a determination of the Court within three (3) business days after the final voting results are certified by the Claims and Balloting Agent.
- e. For the purposes of tabulating votes, each Beneficial Owner shall be deemed (regardless of whether such holder includes interest in the amount voted on its Ballot) to have voted only the principal amount of its public securities; any principal amounts thus voted may be thereafter adjusted by the Claims and Balloting Agent, on a proportionate basis to reflect the corresponding claim amount, including any accrued but unpaid prepetition interest, with respect to the securities thus voted.
- f. A single Master Ballot Agent may complete and deliver to the Claims and Balloting Agent multiple Master Ballots. Votes reflected on multiple Master Ballots shall be counted except to the extent that they are duplicative of other Master Ballots. If two or more Master Ballots are

inconsistent, the last properly executed Master Ballot received prior to the Voting Deadline shall, to the extent of such inconsistency, supersede any prior received Master Ballot; provided, however, that any superseded Ballots shall be documented in the voting results filed with the Court.