

Walter Energy, Inc.
\$50,000,000
Debtor-in-Possession Term Loan Facility
Summary of Terms and Conditions

<u>Borrower:</u>	Walter Energy, Inc. (the “ <u>Borrower</u> ”), as a debtor and debtor-in-possession in a case (together with the cases of its affiliated debtors and debtors-in-possession, the “ <u>Cases</u> ”) under chapter 11 of title 11 of the United States Bankruptcy Code (the “ <u>Bankruptcy Code</u> ”) commenced in the United States Bankruptcy Court for the Northern District of Alabama (the “ <u>Bankruptcy Court</u> ”) on July 15, 2015 (the “ <u>Petition Date</u> ”).
<u>Guarantors:</u>	Each of the Borrower’s existing and future, direct and indirect subsidiaries that are debtors and debtors-in-possession in the Cases (collectively, the “ <u>Guarantors</u> ” and, together with the Borrower, the “ <u>Debtors</u> ”). All obligations of the Borrower under the DIP Facility will be unconditionally guaranteed on a joint and several basis by the Guarantors.
<u>Backstop Parties:</u>	Certain lenders and noteholders holding the majority in amount of the First Lien Obligations ¹ (collectively, the “ <u>Backstop Parties</u> ”) will provide commitments to fund the DIP Loans (as defined below) (the “ <u>Backstop Commitments</u> ”).
<u>DIP Agent:</u>	A financial institution selected by the Backstop Parties shall act as administrative agent and collateral agent (in such capacity, the “ <u>DIP Agent</u> ”) on behalf of the DIP Lenders (as defined below).
<u>DIP Lenders:</u>	On or prior to the date of entry of the Final Order (as defined below) (the “ <u>Final Order Entry Date</u> ”), each holder of record (collectively, the “ <u>First Lien Creditors</u> ”) as of 11:59 p.m. New York time on January 13, 2016 (the “ <u>Record Date</u> ”) of claims under the Credit Agreement or the First Lien Indenture, as applicable, but excluding any claims on account of any unfunded Revolving Loan Commitments and the outstanding undrawn Letters of Credit, each as defined in the Credit Agreement (collectively, the “ <u>First Lien Claims</u> ”) shall be afforded the right to participate in the DIP Facility on a ratable basis up to its pro rata share of the First Lien Claims as of the Record Date pursuant to procedures, terms and conditions and documentation acceptable to the Backstop Parties and the DIP Agent (lenders holding the DIP Loans, the “ <u>DIP Lenders</u> ”). Any amounts of the DIP Facility not so allocated shall be allocated to the Backstop Parties on a ratable basis based on their respective Backstop Commitments.

¹ Unless otherwise indicated, capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Amended Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Postpetition Secured Parties and (C) Granting Related Relief [Docket No. 797] (the “Cash Collateral Order”).

<p><u>Type and Amount of the DIP Facility:</u></p>	<p>A non-amortizing multiple draw super-priority senior secured term loan facility (the “<u>DIP Facility</u>”) in an aggregate principal amount not to exceed \$50 million (the “<u>DIP Lenders’ commitments under the DIP Facility, the “DIP Commitments”</u>”; and the loans under the DIP Facility, the “<u>DIP Loans</u>”).</p> <p>The DIP Loans under the DIP Facility may be incurred during the Availability Period (as defined below), subject to the satisfaction or waiver of all conditions thereto set forth in the Definitive Financing Documentation (as defined below) (such date, the “<u>Closing Date</u>”), including the entry of an Order of the Bankruptcy Court (the “<u>Sale Order</u>”), in form and substance satisfactory to the Backstop Parties, pursuant to Bankruptcy Code sections 105, 363, 364 and 365 authorizing and approving, <i>inter alia</i>, the Asset Purchase Agreement, dated as of November 5, 2015, by and among Coal Acquisition LLC, as buyer (the “<u>Buyer</u>”), the Borrower and certain subsidiaries of Borrower, as sellers (the “<u>Asset Purchase Agreement</u>”). On the Closing Date, DIP Lenders shall fund \$30 million in principal amount of the DIP Loans (the “<u>Initial Escrowed DIP Loans</u>”) to an account maintained by the DIP Agent in escrow (the “<u>Escrow Account</u>”). Interest shall accrue on the full amount of the Initial Escrowed DIP Loans starting from the Closing Date. The Initial Escrowed DIP Loans may be withdrawn by the Borrower from the Escrow Account during the Availability Period (the date of any withdrawal by the Borrower from the Escrow Account, a “<u>DIP Draw Date</u>”) provided that (i) immediately after giving effect to each such proposed withdrawal (and the use of proceeds thereof on any such DIP Draw Date), the aggregate amount of unrestricted cash and cash equivalents of the Borrower and the Debtors shall not exceed \$40 million, (ii) the amount of DIP Loans withdrawn on each DIP Draw Date shall not be less than \$5 million (or, if less than \$5 million, the aggregate amount remaining in the Escrow Account) (iii) the Drawdown Fee shall have been paid on each DIP Draw Date, and (iv) all conditions set forth in the “Conditions Precedent to each DIP Term Loan” section of this Term Sheet have been satisfied ((i), (ii), (iii) and (iv) collectively, the “<u>DIP Draw Conditions</u>”). In the event that the Availability Period is extended as a result of an extension to the Stated Maturity Date as set forth in the definition thereof and less than \$2.5 million of the Initial Escrowed DIP Loans remain in the Escrow Account, to the extent requested by the Borrower and subject to the satisfaction of all conditions set forth in the “Conditions Precedent to each DIP Term Loan” section of this Term Sheet (other than clauses (iii) and (vii) therein), DIP Lenders shall fund \$20 million in principal amount of the DIP Loans (the “<u>Second Escrowed DIP Loans</u>”) to the Escrow Account. Interest shall accrue on the full amount of the Second Escrowed DIP Loans starting from the date of the funding by DIP Lenders of such DIP Loans to the Escrow Account (the “<u>Second Escrowed DIP Loan Funding Date</u>”). The Second Escrowed DIP Loans may be withdrawn by the Borrower on and after the Second Escrowed DIP Loan Funding Date but prior to the end of the Availability Period only to the extent the DIP Draw Conditions are satisfied with respect to each such withdrawal. For the avoidance of doubt, any amount of the DIP Loans under the DIP Facility funded into the Escrow Account will permanently reduce the DIP Commitments by such amount, and once repaid, the DIP Loans under the DIP Facility cannot be reborrowed, and in no event shall the aggregate principal amount of DIP Loans exceed \$50 million.</p>
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<u>Availability Period:</u>	DIP Loans under the DIP Facility may be drawn during the period from and including the Closing Date up to but excluding the DIP Termination Date (as defined below) (such period, the “ <u>Availability Period</u> ”). The DIP Commitments will expire at the end of the Availability Period.
<u>Maturity:</u>	All obligations under the DIP Facility will be due and payable in full in cash on the earliest of (i) the Stated Maturity Date; (ii) the effective date of any chapter 11 plan for the reorganization of the Borrower or any other Debtor; (iii) the consummation of any sale or other disposition of all or substantially all of the assets of the Debtors pursuant to Bankruptcy Code section 363 (including pursuant to the Asset Purchase Agreement); and (iv) the date of the acceleration of the DIP Loans and the termination of the DIP Commitments in accordance with the Definitive Financing Documentation (such earliest date, the “ <u>DIP Termination Date</u> ”). The principal of, and accrued interest on, the DIP Loans and all other amounts owing to the DIP Agent and the DIP Lenders under the DIP Facility (the “ <u>DIP Obligations</u> ”) shall be due and payable in cash on the DIP Termination Date. Upon the Closing (as defined in the Asset Purchase Agreement) of the transactions under the Asset Purchase Agreement, the DIP Obligations shall be indefeasibly and immediately paid in full in cash from the cash consideration provided by the Buyer under the Asset Purchase Agreement. “ <u>Stated Maturity Date</u> ” shall mean February 29, 2016; <u>provided</u> that such date may be extended with the consent of the Required Lenders and shall be extended automatically to match the Outside Date (under and as defined in the Asset Purchase Agreement) if such Outside Date is extended beyond February 29, 2016; <u>provided further</u> that, in no event shall the Stated Maturity Date be extended, either with the consent of the Required Lenders or automatically, to a date that is later than March 30, 2016.
<u>Purpose:</u>	In accordance with the Approved Budget, but subject to the “Budget Covenant”, the proceeds of the DIP Loans under the DIP Facility will be used only for the following purposes: (i) for the payment of prepetition amounts (including prepetition payments to certain critical vendors identified by the Borrower) to the extent authorized pursuant to first day orders, other orders entered in the Cases prior to the Closing Date or with the consent of the Backstop Parties, (ii) for the payment of working capital and other general corporate needs of the Borrower and the Guarantors in the ordinary course of business, and (iii) for the payment of the costs and expenses of administering the Cases (including payments benefiting from the Carve-Out (as defined below)), including allowed professional fees subject to the terms and conditions set forth in this Term Sheet (and including fees incurred prior to the Closing Date) and the Cash Collateral Order (for the avoidance of doubt, no proceeds of the DIP Loans may be used to make any adequate protection payments set forth in paragraph 11(a) of the Cash Collateral Order). Notwithstanding the foregoing, the use of the proceeds of the DIP Loans, the Carve-Out and the Debtor Collateral (as defined below) shall be subject to further restrictions consistent with those in the Cash Collateral Order, as amended by the Final Order, including with respect to limitations on investigating and challenging claims of the Prepetition Secured Parties and limitations on paying fees and expenses of official committees. No proceeds of the DIP Facility or the Debtor Collateral may be used to initiate, prepare or prosecute proceedings or actions on account of any claims and defenses against

the Prepetition Secured Parties, the DIP Agent or the DIP Lenders.

For the avoidance of doubt and notwithstanding any other provision of this Term Sheet, other than the Investigation Budget (which may be used solely for the purposes authorized in the Cash Collateral Order, as amended by the Final Order), from and after the Closing Date, no DIP Loans, Debtor Collateral, Prepetition Collateral, including Cash Collateral, or any portion of the Carve-Out, may be used directly or indirectly by any Debtor, any Guarantor, any official committee appointed in the Cases, including the Creditors' Committee and Retiree Committee, or any trustee appointed in the Cases or any successor case, including any chapter 7 case, or any other person, party or entity to (i) investigate, object, contest, or raise any defense to the validity, perfection, priority, extent, or enforceability of the Prepetition Obligations, the DIP Obligations (as defined below) and/or the liens, claims or rights granted under the Cash Collateral Order, the Final Order, the Definitive Financing Documents or the Prepetition Debt Documents, or take any action purporting to do any of the foregoing; (ii) investigate, assert or prosecute any Claims and Defenses against the Prepetition Secured Parties, the DIP Agent or the DIP Lenders or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors or any action purporting to do the foregoing in respect of the Prepetition Obligations, the Prepetition Liens, DIP Obligations, DIP Liens (as defined below), DIP Claims (as defined below), and/or the Adequate Protection Obligations, Adequate Protection Liens and Superpriority Claims granted to the Prepetition Secured Parties under the Cash Collateral Order or the Final Order, as applicable; (iii) prevent, hinder, or otherwise delay the Prepetition Secured Parties', the DIP Agent's or the DIP Lenders', as applicable, enforcement or realization on the Prepetition Obligations, Prepetition Collateral, DIP Obligations, Debtor Collateral, Cash Collateral and the liens, claims and rights granted to such parties under the Cash Collateral Order and the Final Order, in accordance with the Prepetition Debt Documents, the Definitive Financing Documents, the Cash Collateral Order or the Final Order, as applicable; (iv) seek to modify any of the rights and remedies granted to the Prepetition Secured Parties, the DIP Agent or the DIP Lenders under the Cash Collateral Order, the Final Order (other than with the consents contemplated thereunder), the Prepetition Debt Documents or the Definitive Financing Documents, as applicable; (v) apply to the Bankruptcy Court for authority to approve superpriority claims or grant liens (other than the Approved Liens) or security interests in the Debtor Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Claims, Adequate Protection Liens and Superpriority Claims granted to the Prepetition Secured Parties, or Prepetition Liens, unless all DIP Obligations, Prepetition Obligations, Adequate Protection Obligations, and claims granted to the DIP Agent, DIP Lenders or Prepetition Secured Parties under the Cash Collateral Order and the Final Order, as applicable, have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the Required Lenders or the Steering Committee and the Administrative Agent, as applicable, each in its sole discretion; or (vi) seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are agreed to in writing by the Required Lenders in their sole discretion or are otherwise included in the Approved Budget.

<p><u>Final Order:</u></p>	<p>The order approving the DIP Facility, which shall be in form and substance acceptable to the Backstop Parties and the Debtors (the “<u>Final Order</u>”), shall, among other things, authorize, approve and direct the Debtors to enter into the Definitive Financing Documentation, the making of the DIP Loans, the granting of the super-priority claims and liens against the Debtors and their assets in accordance with this Term Sheet and the Definitive Financing Documentation with respect to the Debtor Collateral and the payment of all fees and expenses (including the fees and expenses of outside counsel and financial advisors) required to be paid to the DIP Agent, the DIP Lenders and the Backstop Parties as described in “Indemnification and Expenses” by the Debtors.</p>
<p><u>Priority and Security Under DIP Facility:</u></p>	
<p><i>Debtor Collateral</i></p>	<p>All obligations of the Borrower and the Guarantors to the DIP Lenders and to the DIP Agent, including, without limitation, all principal and accrued interest, costs, fees and expenses or any exposure of a DIP Lender or any of its affiliates in respect of cash management incurred on behalf of the Borrower or any Guarantor (collectively, the “<u>DIP Obligations</u>”), shall be:</p>
	<p>Secured, pursuant to Bankruptcy Code sections 361, 362, 364(c)(2), 364(c)(3) and 364(d), by a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically and properly perfected first priority senior priming lien on, and security interest in (such liens and security interests, the “<u>DIP Liens</u>”), all present and after acquired property (whether tangible, intangible, real, personal or mixed) of the Debtors, wherever located, including, without limitation, all accounts, inventory, equipment, capital stock in subsidiaries of the Debtors, investment property, instruments, chattel paper, real estate, leasehold interests, contracts, patents, copyrights, trademarks and other general intangibles, and all products and proceeds thereof, and the proceeds of any causes of action under Bankruptcy Code sections 502(d), 544, 545, 547, 548, 549, 550 or 553 or any other avoidance actions under the Bankruptcy Code or applicable non-bankruptcy law (all such property, the “<u>Debtor Collateral</u>”), which liens and security interests shall be senior to any and all other liens and security interests, including the Adequate Protection Liens granted under the Cash Collateral Order and the Final Order, and the liens granted to the Prepetition Secured Parties under the Prepetition Debt Documents, other than the (i) Carve-Out, (ii) Permitted Priority Liens, if any, and (iii) Approved Liens.</p>
	<p>The DIP Obligations shall also constitute claims entitled to the benefits of Bankruptcy Code section 364(c)(1), having a super-priority over any and all administrative expenses and claims, of any kind or nature whatsoever, including, without limitation, the Superpriority Claims granted to the Prepetition Secured Parties under the Cash Collateral Order and the Final Order, and the administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503, 506, 507(a), 507(b), 546, 552, 726, 1113 and 1114, and any other provision of the Bankruptcy Code (“<u>DIP Claims</u>”), subject only to the Carve-Out.</p>

	<p>“<u>Carve-Out</u>” shall be defined in a manner consistent with the Cash Collateral Order, as amended by the Final Order. For the avoidance of doubt and notwithstanding anything to the contrary in the Cash Collateral Order, from and after the Closing (as defined in the Asset Purchase Agreement), the Debtors shall irrevocably waive any right to use, utilize or otherwise access any funds or moneys relating to the “Carve-Out,” and the Carve-Out shall be eliminated.</p>
<u>Intercompany Loans</u>	Any and all intercompany loans held by the Borrower or the Guarantors shall be pledged in favor of the DIP Agent pursuant to the Final Order.
<u>Interest Rates:</u>	<p>12% per annum payable in cash on the DIP Termination Date.</p> <p>After the occurrence and during the continuance of an event of default, interest on all DIP Loans and all other outstanding amounts under the Definitive Financing Documentation will bear interest at a rate equal to 2.0% per annum <u>plus</u> the otherwise applicable rate.</p>
<u>Upfront Fee:</u>	An upfront fee in an amount equal to 7.5% of the DIP Commitments shall be paid to the DIP Lenders in cash from the proceeds of the DIP Loans ratably based on their respective DIP Commitments on the Closing Date.
<u>Drawdown Fee:</u>	A drawdown fee in an amount equal to 2.5% of each withdrawal of DIP Loans by the Borrower from the Escrow Account (the “ <u>Drawdown Fee</u> ”) shall be paid to the DIP Lenders in cash ratably based on their respective principal amount of DIP Loans withdrawn on each DIP Draw Date and such fee shall be paid from the proceeds thereof (it being understood that such fee shall be payable in respect of the principal amount of the DIP Loans actually funded by the DIP Lenders into the Escrow Account rather than the net proceeds of DIP Loans actually received by the Borrower).
<u>Put Option Premium:</u>	A put option premium in an amount equal to 7.5% of the Backstop Commitments shall be paid in cash to the Backstop Parties ratably based on their respective Backstop Commitments on the Closing Date from the proceeds of the initial DIP Loan.
<u>Prepayments:</u>	<p><i>Voluntary:</i> Prepayments under the DIP Facility may be made at any time without premium or penalty (other than breakage costs to the extent applicable).</p> <p><i>Mandatory:</i> The Definitive Financing Documentation will require mandatory prepayments customarily found in loan documents for similar debtor-in-possession financings and other mandatory prepayments deemed by the Backstop Parties appropriate to the specific transaction, including, without limitation, prepayments from proceeds of (i) asset sales (other than the sale contemplated by the Asset Purchase Agreement), (ii) insurance and condemnation proceeds and (iii) equity or debt issuances, in each case, received by the Borrower or any of the Guarantors and subject to exceptions to be agreed.</p>

<u>Conditions Precedent to the Closing:</u>	<p>Conditions precedent customarily found in loan documents for similar debtor-in-possession financings and other conditions precedent deemed by the Backstop Parties appropriate to the specific transaction, including, without limitation: (i) execution and delivery of a credit agreement (the “<u>DIP Credit Agreement</u>”) and other definitive documentation evidencing the DIP Facility, in each case, which shall be in form and substance substantially consistent with this Term Sheet and otherwise acceptable to the Backstop Parties and the Debtors (the “<u>Definitive Financing Documentation</u>”); (ii) entry of the Final Order; (iii) entry of the Sale Order in form and substance acceptable to the Backstop Parties and the Debtors, which Sale Order shall not have been reversed, amended, stayed, vacated, terminated or otherwise modified in any manner, in each case, without the prior written consent of the Backstop Parties in their sole discretion; (iv) delivery of the Approved Budget acceptable to the Backstop Parties in their sole discretion; and (v) the syndication of the DIP Commitments as described in “DIP Lenders” above shall have been completed.</p>
<u>Conditions Precedent to Each DIP Term Loan:</u>	<p>Conditions precedent customarily found in loan documents for similar debtor-in-possession financings and other conditions precedent deemed by the Backstop Parties appropriate to the specific transaction, including, without limitation, (i) no default or event of default, (ii) accuracy of representations and warranties in all material respects, (iii) on such DIP Draw Date and immediately after giving effect to each such proposed draw and the use of proceeds thereof as of such DIP Draw Date, unrestricted cash and cash equivalents of the Borrower and the Debtors shall be no greater than \$40 million, (iv) no breach of, or failure to perform by Debtors or any of their subsidiaries of any of their agreements, covenants, representations or warranties contained in the Asset Purchase Agreement or in the Sale Order, (v) no termination event has occurred under the Asset Purchase Agreement, (vi) no order has been entered reversing, amending, staying, vacating, terminating or otherwise modifying in any manner the Sale Order, in each case, without the prior written consent of the Backstop Parties in their sole discretion; and (vii) delivery of a notice of borrowing.</p>
<u>Representations and Warranties:</u>	<p>The Definitive Financing Documentation will contain representations and warranties appropriate for a transaction of this type and customarily found in loan documents for similar debtor-in-possession financings and other representations and warranties deemed by the Backstop Parties appropriate to the specific transaction.</p>

<p><u>Reporting Covenants, Affirmative Covenants and Negative Covenants:</u></p>	<p>The Definitive Financing Documentation will contain reporting requirements, affirmative covenants and negative covenants appropriate for a transaction of this type and customarily found in loan documents for similar debtor-in-possession financings and other reporting requirements, affirmative covenants and negative covenants deemed by the Backstop Parties appropriate to the specific transaction, including, without limitation: (i) delivery of variance reports consistent with what is required under the Cash Collateral Order, as amended by the Final Order, and (ii) a prohibition on transferring any cash or cash equivalents to a subsidiary of the Borrower that is not a Guarantor.</p> <p>Notwithstanding any of the foregoing, any DIP Lender may elect not to receive any of the information provided by the Borrower and/or the Guarantors pursuant to the reporting covenants in the DIP Credit Agreement (the “<u>Information</u>”). Following receipt of written notice of such election from such DIP Lender, the DIP Agent will refrain from delivering the Information to such DIP Lender until the DIP Agent has received a written request from such DIP Lender to be provided with the Information.</p>
<p><u>Budget Covenant:</u></p>	<p>Maximum negative variance of \$10,000,000 from the “Cumulative Net Cash Flow” line in the Approved Budget and maximum negative variance of the greater of \$5,000,000 and 5% of “Cumulative Disbursements” set forth in the Approved Budget from the “Cumulative Disbursements” line set forth in the Approved Budget, which, in each case, shall be tested every two weeks on a cumulative basis from the beginning of the period covered by the Approved Budget. “Cumulative Net Cash Flow” and “Cumulative Disbursements” shall not include, (w) fees and expenses of the Steering Committee Advisors, the Consultants, and the professionals retained by the Backstop Parties, and fees and expenses of professionals retained by the DIP Agent, the Administrative Agent, the First Lien Trustee and the Debtors, (x) Cash Collateral provided with respect to Approved Collateralized Obligations, (y) key employee retention payments approved by both the Required Lenders and the Bankruptcy Court and (z) any other amounts excluded from “Cumulative Net Cash Flow” or “Cumulative Disbursements” in the Cash Collateral Order.</p> <p>Cumulative capital expenditures beginning January 1, 2016, as calculated on a GAAP basis, shall not exceed by \$1.5 million of the amount set forth in a capital expenditure budget delivered in connection with the DIP Facility in form and substance satisfactory to the Required Lenders. Such covenant shall be tested monthly.</p>
<p><u>Approved Budget:</u></p>	<p>The DIP Agent and the DIP Lenders shall have received an operating budget setting forth the projected financial operations of the Debtors and their subsidiaries for the 11-week period starting on the week in which the Closing Date occurs, which budget shall be in form and substance acceptable to the Backstop Parties in their sole discretion (the “<u>Approved Budget</u>”).</p>

<p><u>Events of Default:</u></p>	<p>The Definitive Financing Documentation will contain events of default customarily found in loan documents for similar debtor-in-possession financing and other events of default deemed by the Backstop Parties appropriate to the specific transaction, including, without limitation, upon the occurrence of any of Termination Event under and as defined in the Cash Collateral Order, upon any breach of, or failure to perform by Debtors of any of their agreements, covenants, representations or warranties contained in the Asset Purchase Agreement or in the Sale Order, upon the occurrence of any termination event under the Asset Purchase Agreement and upon the entry of an order reversing, amending, staying, vacating, terminating or otherwise modifying in any manner the Sale Order, in each case, without the prior written consent of the Backstop Parties in their sole discretion.</p>
<p><u>Remedies:</u></p>	<p>The DIP Agent (acting at the direction of the Required Lenders) and the DIP Lenders shall have customary remedies, including, without limitation, the right (after providing five (5) business days' prior notice to counsel to the Debtors, counsel to the Creditors' Committee, counsel to the Retiree Committee, and the Bankruptcy Administrator of the occurrence of the DIP Termination Date), to realize on all Debtor Collateral, including Cash Collateral.</p> <p>The automatic stay pursuant to Bankruptcy Code section 362 shall be automatically terminated on the DIP Termination Date, without further notice or order of the Bankruptcy Court, unless the DIP Agent (at the direction of the Required Lenders) elects otherwise in a written notice to the Debtors, and the DIP Agent (at the direction of the Required Lenders) shall be permitted to exercise all rights and remedies, including with respect to the Debtor Collateral, set forth in the Final Order and the Definitive Financing Documentation, and as otherwise available at law without further order or application or motion to the Bankruptcy Court, and without restriction or restraint by any stay under Bankruptcy Code sections 362 or 105 or otherwise.</p> <p>In the event any party requests a hearing seeking to prevent the DIP Agent or the DIP Lenders from exercising any of their rights and remedies that arise after an event of default, the sole issue before the Bankruptcy Court at such hearing shall be whether an event of default has occurred and has not been cured or waived. No other issue or argument shall be relevant to any opposition to enforcement of the DIP Agent's and the DIP Lenders' rights.</p>

<p><u>Indemnification and Expenses:</u></p>	<p>The Borrower and the Guarantors, jointly and severally, will indemnify and hold harmless the DIP Agent, the Backstop Parties, the DIP Lenders, the First Lien Secured Parties, their respective affiliates, successors and assigns and the officers, directors, employees, agents, advisors, controlling persons and members of each of the foregoing (each, an “<u>Indemnified Person</u>”) from and against all costs, expenses (including reasonable and documented fees, disbursements and other charges of outside counsel but subject to the limitations set forth two paragraphs below) and liabilities of such Indemnified Person arising out of or relating to any claim or any litigation or other proceeding (regardless of whether such Indemnified Person is a party thereto and regardless of whether such matter is initiated by a third party or by the Borrower or any of its affiliates) that relates to the DIP Facility, the Final Order, or the transactions contemplated thereby; <u>provided</u> that, no Indemnified Person will be indemnified for any cost, expense or liability to the extent determined in the final, non-appealable judgment of a court of competent jurisdiction to have resulted solely from its gross negligence or willful misconduct.</p> <p>No Indemnified Person shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Borrower, the Guarantors or any of their subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted solely from such Indemnified Person’s gross negligence, willful misconduct or material breach of its obligations hereunder. In no event, however, shall any Indemnified Person be liable on any theory of liability for any special, indirect, consequential or punitive damages.</p> <p>In addition, (a) all out-of-pocket expenses (including, without limitation, reasonable and documented fees, disbursements and other charges of outside counsel and financial advisors) of the DIP Agent and the Backstop Parties (but excluding the fees and expenses of any outside counsel or financial advisor retained by any individual Backstop Party), whether accrued on, prior to or after the Closing Date, in connection with the Cases, the DIP Facility and the transactions contemplated thereby shall be paid by the Borrower and the Guarantors from time to time, whether or not the Closing Date occurs and (b) all out-of-pocket expenses (including, without limitation, fees, disbursements and other charges of outside counsel and financial advisors) of the DIP Agent and the DIP Lenders, for enforcement costs and documentary taxes associated with the DIP Facility and the transactions contemplated thereby will be paid by the Borrower and the Guarantors and (c) all fees of the DIP Agent charged in connection with any “seasoning” of the DIP Facility shall be paid by the Borrower and the Guarantors. Notwithstanding the foregoing, in no event shall (i) the DIP Agent and (ii) the DIP Lenders, in each case, be entitled to the reimbursement of costs and expenses of more than one primary counsel, one local Alabama counsel and other special counsel and advisors, as needed.</p>
<p><u>Required Lenders:</u></p>	<p>At least four unaffiliated DIP Lenders who are Backstop Parties or their affiliates holding at least 55% of the outstanding commitments and loans under the DIP Facility held by all Backstop Parties and their affiliates at such time (the “<u>Required Lenders</u>”).</p>

<u>Assignments and Participations:</u>	<p>Assignments under the DIP Facility are subject to the consent of the DIP Agent, which consent shall not be unreasonably withheld or delayed, except, in each case, with respect to any assignment to a DIP Lender, an affiliate of such a DIP Lender or a fund engaged in investing in commercial loans that is advised or managed by such a DIP Lender. No participation shall include voting rights, other than for matters requiring consent of 100% of the DIP Lenders.</p> <p>Notwithstanding anything to the contrary herein, except in connection with the syndication of the DIP Commitments as described above in “DIP Lenders”, no assignments of the DIP Commitments shall be allowed prior to the Final Order Entry Date.</p>
<u>Governing Law:</u>	State of New York (and, to the extent applicable, the Bankruptcy Code).
<u>Miscellaneous:</u>	The Definitive Financing Documentation will include standard yield protection provisions (including, without limitation, provisions relating to compliance with risk based capital guidelines, increased costs and payments free and clear of withholding taxes).
<u>Counsel to Backstop Parties:</u>	<p>Akin Gump Strauss Hauer & Feld LLP</p> <p>Burr & Forman LLP</p>
<u>Counsel to DIP Agent:</u>	TBD