

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

Jointly Administered

**FINAL ORDER AUTHORIZING (i) DEBTORS TO
PAY PREPETITION OBLIGATIONS OWED TO FOREIGN
CREDITORS AND (ii) FINANCIAL INSTITUTIONS
TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, for an interim order (the “**Interim Order**”) and final order (this “**Order**”) authorizing the Debtors to (i) pay or honor their prepetition obligations owed to foreign creditors and (ii) authorize financial institutions to honor and process related checks and transfers, as more fully described in the Motion; and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed in support of the Debtors’ first-day pleadings (the “**Declaration**”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges

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

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

for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and the Court having entered the Interim Order on July 11, 2012; and due and proper notice of the Motion, the Interim Order and the Final Hearing (as defined below) having been provided to (a) the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”), (b) those creditors holding the five largest secured claims against the Debtors’ estates on a consolidated basis, (c) those creditors holding the 50 largest unsecured claims against the Debtors’ estates on a consolidated basis, (d) attorneys for the administrative agents for the Debtors’ postpetition lenders, (e) the Internal Revenue Service, (f) the Securities and Exchange Commission, (g) the United States Environmental Protection Agency and (h) the United States Attorney’s Office for the Southern District of New York; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held an interim hearing on July 10, 2012 (the “**Interim Hearing**”) and a final hearing on August 2, 2012 (the “**Final Hearing**”, and together with the Interim Hearing, the “**Hearings**”) with appearances of parties in interest noted in the transcripts thereof; and the Court having determined that the legal and factual bases set forth in the Motion, the Declaration and at the Hearings establish just cause for the final relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the final relief requested in the Motion is hereby granted *nunc pro tunc* to the Petition Date as set forth herein; and it is further

ORDERED that the Debtors' are authorized, but not required, to pay prepetition amounts owed to Foreign Creditors in the ordinary course of business, in the Debtors' reasonable business judgment and in accordance with the terms of those obligations, in an aggregate amount not to exceed \$750,000; and it is further

ORDERED that pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are authorized, but not directed, in their reasonable business judgment, to pay some or all of the prepetition claims of those Foreign Creditors that agree (unless otherwise waived by the Debtors, in their reasonable business judgment) to continue to supply goods or services to the Debtors on such Foreign Creditor's "**Customary Trade Terms**" for a period following the date of the agreement and on other such terms and conditions as are acceptable to the Debtors. As used herein, "Customary Trade Terms" means, with respect to a Foreign Creditor, (i) the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, and availability, and other applicable terms and programs), that were most favorable to the Company and in effect between such Foreign Creditor and the Company prior to the Petition Date or (ii) such other trade terms as agreed by the Debtors and such Foreign Creditor. The Customary Trade Terms shall apply for the remaining term of the Foreign Creditor's agreement with the Debtors; *provided, however*, that the Debtors pay for the

goods and services in accordance with the payment terms provided in the agreement; and
it is further

ORDERED that the Debtors are hereby authorized, but not directed, to obtain written verification, before issuing payment to a Foreign Creditor, that such Foreign Creditor will, if relevant, continue to provide goods and services to the Debtors on Customary Trade Terms for the remaining term of the Foreign Creditor's agreement with the Debtors; *provided, however*, that the absence of such written verification shall not limit the Debtors' rights hereunder; and it is further

ORDERED that if a Foreign Creditor that has received payment of a prepetition claim later refuses to continue to supply goods or services for the applicable period in compliance with this Order, then (a) the Debtors may, in their reasonable business judgment and with notice to the official committee of unsecured creditors (the "**Committee**") as soon as reasonably practicable thereafter, declare that the payment of the creditor's Foreign Claim is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Foreign Creditor, (b) the creditor shall immediately return such payments in respect of a Foreign Claim to the extent that the aggregate amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever and (c) the creditor's Foreign Claim shall be reinstated in such an amount so as to restore the Debtors and the Foreign Creditor to their original positions as if no payment of Foreign Claim had been made; and it is further

ORDERED that the Debtors shall maintain a matrix summarizing (a) the name of each Foreign Creditor paid on account of Foreign Claims, (b) the amount paid to each Foreign Creditor on account of its Foreign Claim, (c) the goods or services provided by such Foreign Creditor and (d) whether such Foreign Creditor is subject to Customary Trade Terms. This matrix will be provided monthly, on a confidential basis, to (1) the U.S. Trustee, (2) the professionals to the Committee, via the proposed counsel to the Committee, Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn: Adam C. Rogoff and Gregory G. Plotko and (3) the administrative agents for the Debtors' postpetition lenders (the "**DIP Agents**") via their attorneys, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso; *provided, however*, that Committee members shall receive the matrix only as agreed among the Debtors and the Committee professionals, and the DIP Agents and their professionals shall keep the matrix confidential and, in each case, shall not disclose any of the information in the matrix to any other party, including, but not limited to, any of the Debtors' postpetition lenders, without prior written consent from the Debtors; and it is further

ORDERED that all applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks, drafts, wires, check transfer requests or automated clearing house transfers evidencing amounts paid by the Debtors under this Order, whether presented prior to or after the Petition Date to the extent the Debtors have good funds standing to their credit with such bank or other

financial institution. Such banks and financial institutions are authorized to rely on representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions; and it is further

ORDERED that the Debtors may serve a written notice, substantially in the form attached to the Motion as Exhibit B, which notice is hereby approved, in the Debtors' reasonable business judgment and in lieu of this Order, upon Foreign Creditors; and it is further

ORDERED that nothing contained in this Order shall be deemed to constitute an assumption or postpetition reaffirmation of any executory contract pursuant to section 365 of the Bankruptcy Code or to require the Debtors to make any of the payments or to post any of the deposits authorized herein; and it is further

ORDERED that nothing in this Order shall be construed as impairing the rights of the Debtors, or any other parties in interest, to contest the validity or amount owed to the Foreign Creditors, and all of the Debtors' rights with respect thereto are hereby reserved; and it is further

ORDERED that notwithstanding the relief requested herein, the Debtors and other parties in interest retain all of their rights and remedies under the Bankruptcy Code and other applicable law to pursue any cause of action against any Foreign Creditor, including, but not limited to, a violation of the automatic stay pursuant to section 362(a)(6) of the Bankruptcy Code; and it is further

ORDERED that notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or any other Bankruptcy Rule, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

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

ORDERED that the requirements of Bankruptcy Rule 6003 are satisfied by the contents of the Motion and the arguments and evidence presented at the hearing; and it is further

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

ORDERED that nothing in this Order shall authorize the Debtors to pay any amount on account of prepetition obligations to insiders, affiliates, Peabody Energy Corporation or its insiders or affiliates, or Arch Coal, Inc. or its insiders or affiliates; and it is further

ORDERED that nothing contained herein shall (i) convert the priority of any claim from a prepetition claim into an administrative expense claim, (ii) create or enhance any rights or status of any claim held by any person or entity or (iii) acknowledge, grant or otherwise permit any right of offset or recoupment by a non-debtor with respect to any claim asserted against the Debtors; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising
from or related to the implementation of this Order.

Dated: August 2, 2012
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE