

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

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<b>In re</b>	:	
	:	<b>Chapter 11</b>
<b>EXIDE HOLDINGS, INC. et al.,</b>	:	<b>Case No. 20-11157 (CSS)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
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**STIPULATION RESOLVING THE GENERAL UNSECURED CLAIM OF THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

This stipulation and agreement (the “**Stipulation**”) is entered into by and among the trustee to the GUC Trust<sup>2</sup> (the “**GUC Trustee**”) and the United States, on behalf of the United States Environmental Protection Agency (the “**EPA**”). The GUC Trustee and the EPA are referred to collectively in this Stipulation as the “**Parties**”, and, each, as a “**Party**”. The Parties hereby stipulate and agree as follows:

**RECITALS**

A. On May 19, 2020 (the “**Commencement Date**”), the above-captioned debtors (the “**Debtors**”) each commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”).

B. On November 16, 2020, the EPA filed an unliquidated general unsecured claim at Proof of Claim No. 1029 (“**GUC Claim 1029**”) related to environmental liabilities for the (i) Portland Harbor Superfund Site, (ii) Reading Battery and Residential Sites, (iii) Wiley’s Bridge

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are Exide Holdings, Inc. (5504), Exide Technologies, LLC (2730), Exide Delaware LLC (9341), Dixie Metals Company (0199), and Refined Metals Corporation (9311). The Debtors’ mailing address is 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Fourth Amended Joint Chapter 11 Plan of Exide Holdings, Inc. and Its Affiliated Debtors* [Docket No. 977] (the “**Plan**”).

Lead Site, and (iv) Brown's Battery Breaking Superfund Site (individually a "Site" and collectively the "Sites").

C. On October 16, 2020, the Bankruptcy Court entered the *Order Confirming Fourth Amended Joint Chapter 11 Plan of Exide Holdings, Inc. and Its Affiliated Debtors* [Docket No. 998] (the "**Confirmation Order**") confirming the Plan.

D. On October 26, 2020, the Debtors filed a *Notice of Effective Date and Entry of Order Confirming Fourth Amended Joint Chapter 11 Plan of Exide Holdings, Inc. and Its Affiliated Debtors* [Docket No. 1039] ("**Notice of Effective Date**"), indicating that the Effective Date of the Plan occurred on October 26, 2020.

E. On June 15, 2021, the Plan Administrator and GUC Trustee filed an *Eleventh (Non-Substantive) Joint Omnibus Objection of Plan Administrator and GUC Trustee to Certain (I) Late Filed Claims, (II) Duplicative Claims, (III) Insufficient Documentation Claims, and (IV) Amended and Superseded Claims* [Docket No. 1554] (the "**Eleventh Omnibus Objection**").<sup>3</sup>

F. The Parties have agreed to allow GUC Claim 1029 as a fully liquidated claim in the amount of \$17,569,392.16 on the terms set forth herein.

NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT HEREBY IS STIPULATED AND AGREED, BY AND AMONG THE PARTIES THAT:

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<sup>3</sup> The Plan provides the exclusive authority to object, settle, or otherwise resolve all General Unsecured Claims to the GUC Trustee, on behalf of the GUC Trust, while the Plan Administrator has the authority to object, settle, or otherwise resolve Administrative Expense Claims, Priority Tax Claims, Priority Non-Tax Claims, and Other Secured Claims. To preserve resources, the GUC Trustee and Plan Administrator filed the Eleventh Omnibus Objection jointly. However, the GUC Trustee has the exclusive authority to resolve GUC Claim 1029 and enter into this stipulation because it resolves an unliquidated general unsecured claim. The Plan Administrator has indicated to counsel for the GUC Trustee that he does not object to this Stipulation.

1. This Stipulation shall have no force or effect unless and until executed by the Parties and approved by the Court in accordance with environmental law after public comment (the date of such approval, the “**Effective Date**”).

2. The Eleventh Omnibus Objection shall be deemed resolved as to the EPA as set forth herein and the EPA shall be removed from the proposed form of order on the Eleventh Omnibus Objection.

3. Upon the Effective Date, GUC Claim 1029 shall be Allowed, fully liquidated, and fixed in the amount of \$17,569,392.16 against Exide Technologies, LLC (the “**Allowed Claim**”) with an Allowed General Unsecured Claim in the amount of \$5,569,392.16<sup>4</sup> and a Allowed Environmental NPP Claim in the amount of \$12,000,000.<sup>5</sup> EPA’s Allowed General Unsecured Claim in the amount of \$5,569,392.16 shall be paid without discrimination as an Allowed Class 7 General Unsecured Claim in accordance with the Plan. EPA’s Allowed Environmental NPP Claim in the amount of \$12,000,000 shall be paid without discrimination as an Allowed Class 8 Environmental NPP Claim in accordance with the Plan.

4. The GUC Trustee waives and agrees not to assert or pursue any claims or causes of action against the United States, including any department, agency, or instrumentality of the United States, with respect to the Sites, including, but not limited to: (i) any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established pursuant to 26 U.S.C. § 9507; (ii) any claim under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, or Section 7002(a) of RCRA, 42 U.S.C. § 6972(a); or (iii) any claims arising out of response

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<sup>4</sup> \$5,569,392.16 is the cumulative allowed claim amount for the Portland Harbor Superfund Site (\$825,000), Wiley’s Bridge Lead Site (\$4,273,189.16) and Brown’s Battery Breaking Superfund Site (\$471,203).

<sup>5</sup> \$12,000,000 is the allowed claim amount for the Reading Battery and Residential Sites.

activities at the Sites. Nothing in this Stipulation shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

5. Under no circumstances shall any payments made pursuant to this Stipulation be subject to any direct or indirect right of reimbursement from the Hazardous Substance Superfund established pursuant to 26 U.S.C. § 9507.

6. Except as otherwise provided herein, this Stipulation shall bind the Parties, their successors in interest, and assigns, including, without limitation, any bankruptcy trustee.

7. The GUC Trustee is authorized to take all reasonable actions necessary or appropriate to effectuate the provisions of this Stipulation, including, without limitation, instructing the Debtors' claims and noticing agent, Prime Clerk, LLC, to reflect the changes to the General Unsecured Claims in the official claims register for the Debtors by setting the Allowed Claim to a fully liquidated amount of \$17,569,392.16.

8. EPA may, in its sole discretion, deposit any portion of any cash distributions it receives pursuant to this Stipulation into a special account established by EPA for each Site within the Hazardous Substance Superfund pursuant to Section 122(b)(3), 42 U.S.C. § 9622(b)(3), to be retained and used to conduct or finance response actions at or in connection with a Site, or to be transferred to the Hazardous Substance Superfund.

9. Only the amount of cash received by EPA pursuant to this Stipulation for the Allowed Claim for a particular Site (the Allowed Claim amounts are forth in footnotes 3 and 4 above), and not the total amount of the Allowed Claim for a Site, shall be credited by EPA to its account for a Site, which credit shall reduce the liability of non-settling potentially responsible parties for that Site by the amount of the credit.

10. Distributions to the United States pursuant to this Stipulation shall be made at <https://www.pay.gov> or by FedWire Electronic Funds Transfer in accordance with instructions, including a Consolidated Debt Collection System (“CDCS”) number, to be provided to the GUC Trustee by the Financial Litigation Unit of the United States Attorney’s Office for the District of Delaware. At the time of any distribution pursuant to this Stipulation, the GUC Trustee shall transmit written confirmation of such distribution to the United States at the addresses specified below, and email confirmation of such distribution to the EPA Cincinnati Finance Office at [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov), with a reference to Bankruptcy Case Number **20-11157** the CDCS number, and applicable Site/Spill ID Number: Wiley’s Bridge – A3YB; Brown’s Battery – 0384; Exide Reading/Laureldale Facility – B3AF; and Portland Harbor -103R/ORSFN1002155:

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Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044  
Ref. DOJ File No.: DJ#90-11-2-07802/8

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11. Except as set forth herein, nothing contained in this Stipulation is intended to be or shall be construed as a waiver of any claims or causes of action that may exist against any creditor or interest holder. EPA and the GUC Trustee expressly reserve all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which they may have against all other persons, firms, corporations, entities, or predecessors of the Debtors for any matter arising at or relating in any manner to the Sites. Further, nothing in this Stipulation diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to enter into any settlement that gives rise to contribution protection for any person not a party to this Stipulation; for the avoidance of doubt, nothing contained in this Stipulation shall be construed, applied, or interpreted to change the terms of the Plan or the Confirmation Order in any respect.

12. Subject to the *Consent Decree and Settlement Agreement Regarding the Non-Performing Properties* incorporated in the Plan and approved by the Confirmation Order, this Stipulation shall constitute the entire agreement and understanding of the Parties relating to the matters set forth herein and supersedes all prior agreements and understandings relating to the matters set forth herein.

13. Each of the undersigned who executes this Stipulation by or on behalf of a Party represents and warrants that he or she has been duly authorized and empowered to execute and deliver this Stipulation on behalf of such Party.

14. This Stipulation may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and it shall constitute sufficient proof of this Stipulation to present any copies, electronic copies, or facsimiles signed by the Parties here to be charged.

15. This Stipulation shall not be modified, altered, amended, or vacated without the written consent of all Parties hereto or by order of the Bankruptcy Court.

16. This Stipulation shall be governed by, and construed in accordance with, the laws of the State of Delaware, except to the extent that the Bankruptcy Code or federal law applies, without regard to principles of conflicts of law that would require the application of laws of another jurisdiction.

17. The Parties hereto agree, and by entering this Stipulation the Bankruptcy Court finds, that this Stipulation constitutes a judicially-approved settlement pursuant to which the GUC Trustee has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Stipulation. The “matters addressed” in this Stipulation are all response actions taken or to be taken, and all response costs incurred or to be incurred, at or in connection with the Sites by the United States and all response costs incurred or to be incurred, after the Effective Date at or in connection with the Site by any potentially responsible parties. “Effective Date” means the date on which this Stipulation is approved by the Bankruptcy Court.

18. This Stipulation shall be subject to approval of the Bankruptcy Court in accordance with environmental law.

19. This Stipulation shall be lodged with the Bankruptcy Court and shall thereafter be subject to a period of public comment following publication of notice of the Stipulation in the *Federal Register*. After the conclusion of the public comment period, the United States will file with the Bankruptcy Court any comments received, as well as the United States’ responses to the

comments, and at that time, if appropriate, the United States will request approval of the Stipulation. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is not in the public interest.

20. If for any reason (a) the Stipulation is withdrawn by the United States as provided in Paragraph 19, or (b) the Stipulation is not approved by the Bankruptcy Court: (i) this Stipulation shall be null and void, and the parties hereto shall not be bound under the Stipulation or under any documents executed in connection herewith; (ii) the Parties shall have no liability to one another arising out of or in connection with this Stipulation or under any documents executed in connection herewith; and (iii) this Stipulation and any documents prepared in connection herewith shall have no residual or probative effect or value.

21. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from this Stipulation.

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of the day and year first below written.

Dated: November 15, 2021

By: /s/Matthew C. Indrisano  
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Alan Tenenbaum, Esq.  
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