

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11

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EXIDE TECHNOLOGIES, : Case No. 13-11482

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Debtor.¹ :

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**DEBTOR’S MOTION FOR INTERIM AND FINAL ORDERS PURSUANT TO
BANKRUPTCY CODE SECTIONS 105(a), 363, 507(a), 541, 1107(a), AND 1108 AND
BANKRUPTCY RULES 6003 AND 6004, (I) AUTHORIZING, BUT NOT DIRECTING,
THE DEBTOR TO PAY PREPETITION EMPLOYEE OBLIGATIONS;
(II) AUTHORIZING, BUT NOT DIRECTING, THE DEBTOR TO CONTINUE CERTAIN
EMPLOYEE BENEFIT PROGRAMS IN THE ORDINARY COURSE; AND
(III) AUTHORIZING, BUT NOT DIRECTING, APPLICABLE BANKS TO
HONOR PREPETITION CHECKS FOR PAYMENT OF THE PREPETITION
EMPLOYEE OBLIGATIONS**

Exide Technologies (“Exide” or the “Debtor”) hereby moves (the “Motion”) this Court for entry of an interim order (the “Interim Order”) and a final order (the “Final Order”), under sections 105, 363(b), 507(a), 541, 1107(a), and 1108 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) (i) authorizing, but not directing, the Debtor to pay, among other things, prepetition wages, salaries, commissions, incentive program payments, employee benefits, and reimbursable expenses; (ii) authorizing, but not directing, the Debtor to continue postpetition the maintenance of any or all employee benefit programs, policies, and procedures in the ordinary course in accordance with prepetition practices; (iii) authorizing, but not directing, the applicable banks and financial institutions to honor all related checks and electronic payment requests

¹ The last four digits of the Debtor’s taxpayer identification number are 2730. The Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

authorized pursuant to this Motion provided that sufficient funds are available in the applicable accounts to make the payments; and (iv) granting related relief as further described herein. In support of the Motion, the Debtor relies upon and incorporates by reference the Declaration of Phillip A. Damaska in Support of Chapter 11 Petition and First Day Pleadings (the “First Day Declaration”), filed with this Court concurrently herewith. In further support of the Motion, the Debtor, by and through its proposed undersigned counsel, respectfully represents:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of the case and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 363(b), 507(a)(4), 507(a)(5), 541, 1107(a), and 1108, and Bankruptcy Rules 6003 and 6004.

3. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Bankruptcy Rules”), the Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that this Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

BACKGROUND

A. The Chapter 11 Case

4. On the date hereof (the “Petition Date”), the Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”).²

5. The Debtor continues to operate its business and manage its property as debtor and debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. To date, no creditors’ committee has been appointed by the United States Trustee. No trustee or examiner has been appointed in the Chapter 11 Case.

B. The Debtor’s Business

7. The Debtor, Exide, which together with its direct and indirect subsidiaries (collectively, the “Company”), has operations in more than 80 countries, is a global leader in stored electrical energy solutions and one of the world’s largest producers and recyclers of lead-acid batteries.

8. The Company’s four global business groups—Transportation Americas, Transportation Europe and Rest of World (“ROW”), Industrial Energy Americas, and Industrial Energy Europe and ROW—provide a comprehensive range of stored electrical energy products and services for industrial and transportation applications. The Company manufactures and distributes transportation and industrial batteries in North America, Europe, Asia, the Middle East, India, Australia, and New Zealand. In the transportation segments, the Company distributes and

² The Debtor’s predecessor has a chapter 11 case currently pending in this District (Case No. 02-11125) (the “Previous Chapter 11 Case”). The Previous Chapter 11 Case was filed on April 15, 2002, and the Debtor and certain of its U.S. subsidiaries emerged from chapter 11 on May 5, 2004. There is one claim remaining open in the Previous Chapter 11 Case. In addition, there is a pending adversary proceeding in which a settlement agreement to allow a general unsecured, non-priority claim has been approved by this Court, but is awaiting final approval from the state chancery court to become effective. The Debtor will confer with this Court regarding the disposition of the Previous Chapter 11 Case at the appropriate time.

markets transportation batteries, which include starting, lighting, and ignition batteries for cars, trucks, off-road vehicles, agricultural and construction vehicles, motorcycles, recreational vehicles, marine, and other applications to a broad range of retailers, distributors of replacement or after-market batteries, and automotive original equipment manufacturers (“OEM”). The Company’s industrial batteries consist of motive power batteries and network power applications. Motive power batteries are used in the material handling industry for equipment such as electric fork-lift trucks as well as in other machinery, including floor cleaning machinery, powered wheelchairs, railroad locomotives, mining equipment, and electric road vehicles. Network power batteries provide energy storage solutions for critical systems that require uninterrupted power supply and are used to power, among other things, telecommunications systems, computer installations and data centers, hospitals, air traffic control systems, security systems, electric utilities, railways, and various military applications. The Company has a diverse customer base that includes a number of major end-user customers, retail and OEM, and includes market winners and industry leaders.

9. The Debtor, headquartered in Milton, Georgia, operates 13 manufacturing facilities in the United States. The Debtor also operates approximately 74 branches³ throughout North America, which sell and distribute batteries and other products to customers, battery specialists, retail stores, and OEM dealers. In addition, branch locations collect spent batteries for the Debtor’s recycling facilities. Exide has five smelters, three of which are currently active battery collection and recycling facilities.⁴ These facilities reclaim lead by recycling spent lead-acid batteries, which are obtained for recycling from Exide’s customers and outside spent-battery

³ On average, branch locations are approximately 20,000 square feet in size and are generally leased for periods of 29 to 42 months.

⁴ The smelter furnaces melt lead from spent (i.e., expired) batteries to extract the lead so that it can be re-used to make new batteries.

collectors. In fiscal year 2013, approximately 530,575 tons of batteries, plant scrap, and range lead were recycled at Exide's smelters or by a third party at Exide's request, which efforts enabled Exide to better control the cost of the principal raw material—lead—used in making its products. In the United States, the Debtor historically has obtained the vast majority of its lead requirements from its recycling operations.⁵

10. Additional factual background information about the Debtor, including its business operations, its corporate and capital structures, its restructuring efforts, and the events leading to the filing of the Chapter 11 Case, is set forth in detail in the First Day Declaration.⁶

C. The Debtor's Workforce

11. The Debtor currently employs approximately 3,600 employees in the United States (the "Employees"),⁷ of which 1,100 are paid on a salaried basis and 2,500 are paid on an hourly basis, including 540 unionized hourly Employees (such unionized hourly Employees, the "Union Employees").⁸ In addition, the Debtor employs 16 full-time employees based in Canada (the "Canadian Employees").⁹

⁵ In contrast, the Company obtains the majority of its lead requirements for its ROW operations on the open market from third-party suppliers.

⁶ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

⁷ Overall, the Company employs approximately 9,300 people globally. Of this number, 5,700 are in Europe and ROW (the "Non-Debtor Employees"), are not employed by the Debtor, and, thus, no relief is being requested for the Non-Debtor Employees in the Motion).

⁸ The Debtor is a party to five active collective bargaining agreements (collectively referred to as the "CBAs") governing the Union Employees. As further described herein, certain of the relief requested in the Motion also relates to Employee compensation, severance, benefits, and programs subject to the provisions of Bankruptcy Code sections 1113 and 1114, governing collective bargaining agreements and retiree benefits, respectively. As set forth in further detail in the Motion, the Debtor seeks the authority, but not direction, to honor its obligations under the CBAs in the ordinary course of business.

⁹ The Canadian Employees provide sales services to a division of the Debtor – GNB Industrial Power – which manufactures and recycles large lead acid batteries.

12. The Employees provide a variety of services to support the Debtor's operations. A little under one-third of Exide's salaried Employees are engaged in manufacturing, distribution, and engineering functions, with the balance of the salaried Employees engaged in sales, service, marketing, and administration. The hourly Employees are all engaged in manufacturing, distribution, and engineering functions.

13. To supplement its workforce, Exide has approximately 210 individuals who provide services on a contractual basis (collectively, the "Temporary Workers") and retains approximately 20 independent contractors (collectively, the "Independent Contractors")¹⁰ to provide a range of services including, but not limited to (a) engineering and design services, (b) sales and marketing services, and (c) information technology consulting services. In addition, Exide engages approximately 30 agencies (collectively, the "Industrial Agencies") that provide agents to sell Exide's Motive Power and Network Power products in territories and markets that cannot support coverage by full-time sales representatives (collectively, the "Industrial Agents," and together with the Employees, Canadian Employees, the Temporary Workers, and the Independent Contractors, the "Workforce").¹¹

14. To ensure that the Debtor can continue to operate its business without interruption and to preserve value for the estate, the Debtor, by the Motion, seeks authority, in its discretion, to pay and honor certain of the Prepetition Employee Obligations.

¹⁰ The Debtor, by the Motion, is not acknowledging or admitting to an employer/employee relationship with the Temporary Workers, Independent Contractors, or Industrial Agents.

¹¹ Exide's Motive Power product line consists of batteries necessary to power electric fork lifts, trucks and other industrial electric vehicles. The Network Power product line produces batteries that provide energy storage solutions for critical systems that require uninterrupted power supply and are used to power telecommunications, computers, security systems, electrical power plant systems and military equipment, among others.

RELIEF REQUESTED

15. By the Motion, the Debtor requests that the Court enter an order authorizing, but not directing, the Debtor to: (a) pay and/or otherwise honor or perform, as applicable, prepetition obligations to or for the benefit of the Workforce, including accrued prepetition wages, salaries, and other cash and non-cash compensation claims (collectively, the “Unpaid Compensation”); (b)(i) honor and continue in the ordinary course of business until further notice various employee benefit plans, programs, practices, policies, and procedures (but not assume under Bankruptcy Code section 365(a) any of the plans, programs, practices, policies, procedures, or any related employment or service agreement) and (ii) make prepetition contributions and pay any prepetition amounts associated with the Debtor’s employee benefit plans, programs, practices, policies, and procedures the most significant of which are described below and to pay all fees and costs in connection therewith (collectively, the “Employee Benefit Obligations”); (c) pay over to the appropriate party all prepetition withholdings, deductions, and payroll-related taxes from the Workforce associated with the Unpaid Compensation and the Employee Benefit Obligations (collectively, the “Employee Withholdings”); (d) reimburse the Workforce for prepetition expenses that the Workforce incurred on behalf of the Debtor in the ordinary course of business (the “Employee Expense Obligations,” and, together with the Unpaid Compensation, the Employee Benefit Obligations, and the Employee Withholdings, the “Prepetition Employee Obligations”).

16. The Debtor estimates that it owes approximately \$16,900,000 on account of all of the Prepetition Employee Obligations. The Debtor estimates that if this Court enters the Interim Order, approximately \$10,800,000 will be paid on account of the Prepetition Employee Obligations following entry of the Interim Order and prior to the entry of the Final Order (the “Interim Period”).

17. In addition, the Debtor requests entry of an order authorizing, but not directing, the applicable banks and other financial institutions (collectively, the “Banks”) to receive, process and pay any and all checks drawn on the Debtor’s payroll and general disbursement accounts and other forms of payment, including fund transfers and electronic payment requests, to the extent they relate to any of the foregoing and to rely on the Debtor’s direction to pay amounts authorized under this Motion provided that sufficient funds are available in the applicable accounts to make the payments.

18. For the reasons set forth herein, the Debtor submits that the relief requested herein is in the best interest of the Debtor, its estate, its creditors, and other parties in interest, and therefore, should be granted.

BASIS FOR RELIEF

I. AUTHORIZATION, BUT NOT DIRECTION, TO PAY PREPETITION EMPLOYEE OBLIGATIONS

A. Compensation and Compensation-Related Obligations

19. **Wages and Salaries:** In the ordinary course of its business, the Debtor makes direct deposits to the Employees or pays the Employees via E-Cards¹² on a semi-monthly or weekly basis. Salaried Employees are generally paid current on a semi-monthly basis on the 15th and last day of each month, and hourly Employees (i.e., production Employees in factories, distribution centers, and branches) are generally paid on a weekly basis (on Thursday for the previous week). The aggregate gross amounts are approximately \$2,500,000 for the semi-monthly payroll, including payroll taxes, and \$1,700,000 for the weekly payroll, including payroll taxes.

¹² E-Cards are a form of payment used for the Employees who do not have bank accounts. Specifically, the E-Cards are debit cards on which the Company puts payroll disbursements for certain Employees.

20. On May 31, 2013, the Debtor made its most recent payroll for the period May 16, 2013 through May 31, 2013 for the semi-monthly payroll, and on June 5, 2013, the Debtor made its most recent payroll for the period May 26, 2013 through June 1, 2013 for the weekly payroll. The Debtor estimates that as of the Petition Date, it owes approximately \$5,400,000 on account of accrued and unpaid wages and salaries (the “Employee Wage Claims”).¹³ The Debtor requests authorization, but not direction, to pay any Employee Wage Claims up to the \$12,475 limit provided for by Bankruptcy Code section 507(a)(4)¹⁴ pursuant to the Interim Order, and, pursuant to the Final Order, to pay such claims in the ordinary course of business, including any amounts that were not paid under the Interim Order on account of the \$12,475 limit.

21. In addition to the wages and salaries paid to the Employees, the Debtor pays various service vendors (collectively, the “Staffing Providers”), who refer approximately 210 Temporary Workers. The Debtor estimates that it pays approximately \$637,200 a month to the Staffing Providers. The Debtor estimates that, as of the Petition Date, approximately \$1,596,000 is accrued and unpaid on account of the Staffing Providers, which on average amounts to \$7,600 for each Temporary Worker – an amount well below the \$12,475 priority cap. If the Staffing Providers are not paid, the Staffing Providers may withdraw the Temporary Workers or refuse to provide the Debtor with replacement workers. Although the Debtor could replace the Temporary Workers over time, the abrupt departure of the Temporary Workers could

¹³ The Debtor estimates that as of the Petition Date, it owes an additional \$48,600 to Canadian Employees, who are paid on a bi-weekly basis, with their last payroll period run on May 31, 2013, for the period of May 5, 2013 through May 18, 2013. No one former Canadian Employee will exceed the \$12,475 priority cap on account of their Employee Wage Claims.

¹⁴ On April 1, 2013, the priority amounts under Bankruptcy Code sections 507(a)(4) and (5) were increased from \$11,725 to \$12,475. Specifically, Bankruptcy Code sections 507(a)(4) and (a)(5) grant priority status respectively to “wages, salaries, or commissions” and “contributions to any employee benefit plan,” which together are capped at \$12,475. 11 U.S.C. § 507(a)(4), (a)(5).

significantly disrupt the Debtor's business. Accordingly, by the Motion, the Debtor requests authorization, but not direction, to pay prepetition amounts owing to the Staffing Providers on account of the Temporary Workers.

22. Moreover, the Independent Contractors are compensated by the Debtor in a variety of ways including, but not limited to, (i) an hourly basis, (ii) upon the completion of projects or purchase orders, (iii) on a fixed fee arrangement, or (iv) on an invoice by invoice basis. As of the Petition Date, the Debtor estimates that the Independent Contractors are owed approximately \$70,000. The Debtor will not pay any of the Independent Contractors more than the \$12,475 priority cap imposed by Bankruptcy Code section 507(a)(4).

23. Through approximately 30 Industrial Agencies, the Debtor utilizes the services of approximately 150 Industrial Agents as sales people in areas of the country where the Debtor's employment of full-time sales representatives would be uneconomical. The Industrial Agents are responsible for, on average, 25% of the annual sales of products in the Debtor's Motive Power product line and 20% of the Network Power product line. The Industrial Agents' compensation, which is remitted to them from the Industrial Agencies after payment from the Debtor, is commission-based. Many Industrial Agents have a long-standing relationship with the Debtor and have developed a high level of expertise of the Debtor's products. The Debtor believes that failure to pay any prepetition amounts owed to the Industrial Agencies for the Industrial Agents' services could cause the Industrial Agencies to stop providing Industrial Agents to the Debtor. The loss of Industrial Agents could significantly decrease the Debtor's sales to the detriment of its estate. Moreover, given their familiarity with the Debtor's products, the Debtor believes that it would take approximately two months to find and train new personnel to replace the Industrial Agents – a distraction and expense that would compound the potential

loss of sales experienced without the services provided by the Industrial Agents. Based on the credit terms provided by the various Industrial Agencies, the Debtor estimates that as of the Petition Date, approximately \$1,223,000 is accrued and unpaid on account of the services provided by the Industrial Agents (i.e., \$8,150 on average for each Industrial Agent) through its respective Industrial Agencies. The Debtor requests authority, but not direction, to pay Industrial Agencies for outstanding prepetition amounts during the Interim Period, provided that such payments will not result in a single Industrial Agent receiving a payment above \$12,475 during such period. Pursuant to the Final Order, the Debtor requests authority, but not direction, to pay Industrial Agencies for outstanding prepetition amounts that would result in Industrial Agents receiving payments above \$12,475.

24. **Commissions:** In addition to fixed compensation, in the ordinary course of business, the Debtor pays various commissions to certain Employees to motivate them to develop and foster customer relationships, which are crucial to the continued success of the Debtor's business. The commissions represent a percentage of the value of sales made by an Employee and are paid on a quarterly basis, with the next payment coming due no earlier than August 15, 2013.

25. Based on the historical commissions earned for the first quarter of the past three years, the Debtor estimates that the commissions due for the first quarter of 2013 will be approximately \$275,000, with \$180,000 accrued but unpaid prior to the Petition Date. Because these commissions represent compensation for services provided over a three-month period, the commissions amount may exceed the \$12,475 priority cap for some eligible Employees. The commissions are an important component of an Employee's overall compensation and provide substantial value to the Debtor's estate because they encourage Employees to achieve important

performance targets. Additionally, although commission amounts vary widely, the commissions make up a substantial percentage of their overall compensation and, indeed, are essential to their livelihood. Given that payments of the commissions are not currently due, the Debtor seeks the authority, but not the direction, to pay the commissions under the Final Order in accordance with prepetition procedures, including any amounts that are determined to have accrued prepetition.

26. For the same reasons and subject to the restrictions set forth above, the Debtor pays commissions to certain Canadian Employees, with the next scheduled payment on August 23, 2013. The Debtor seeks authority, but not direction, to pay the commissions under the Final Order in accordance with prepetition procedures.

27. **Vacation Time:** In addition to salaries, wages, commissions, and bonuses, the Debtor provides the eligible Employees with vacation time (the “Vacation Time”) and paid time off (“PTO”).¹⁵ Generally, length of employment determines the amount of the Vacation Time available to each eligible Employee. Specifically, all full-time salaried Employees and full-time non-union hourly Employees are entitled to: (a) one week of vacation after at least six months, but less than one year of service; (b) two weeks of vacation after one year of service; (c) three weeks of vacation after eight years of service; and (d) four weeks of vacation after fifteen years of service. Other hourly Employees are provided with vacation pay based on local practices and/or the applicable CBA.

28. Salaried and regular full-time branch hourly Employees may carry-over unused vacation days until March 31 of the following calendar year. After March 31, any unused

¹⁵ PTO includes family medical leave; pregnancy, adoption, and foster care leave; military leave; voting leave; sick leave; personal leave; holiday leave; jury duty; and bereavement leave. Salaried and most hourly, non-Union Employees are not entitled to compensation for accrued, but unused PTO. PTO policies for the Union Employees vary slightly depending on the particular CBA. Accordingly, there are no cash flow requirements on account of PTO other than potentially for the Union Employees. By the Motion, the Debtor requests authority, but not direction, to honor, in the ordinary course of business, the PTO policies, including all of the obligations to the Union Employees, in accordance with the terms and conditions of the CBAs.

carry-over vacation days are lost (except in California where there is a statutory ban on “lost” vacation). Therefore, as of the Petition Date, no Employee (except possibly Employees in California) has Vacation Time that was carried over from last year.

29. Salaried Employees are only permitted vacation pay in lieu of taking vacation for reason of termination, layoff, resignation, death, retirement, long-term disability, or extreme circumstances. In addition, some Employees are compensated for unused Vacation Time at year end and earned-to-date Vacation Time upon termination.

30. The Debtor anticipates that the Employees will continue to use any accrued Vacation Time in the ordinary course of business, without resulting in any material cash flow requirements beyond the Debtor’s normal payroll obligations. By the Motion, the Debtor seeks authority, but not direction, to honor in the ordinary course all liabilities to the Employees that arose under the Vacation Time policy prior to the Petition Date.¹⁶

31. **Severance:** In the ordinary course of its business, Exide maintained severance policies that were available to the Employees upon termination (the “Severance Obligations”). Currently, there are approximately 78 former Employees, including 21 former Union Employees, who are receiving payments due under the Severance Obligations. The approximate aggregate amount of such severance benefits is \$446,834. The Debtor believes that honoring the Severance Obligations owed to the former Employees who have already been terminated prior to the Petition Date will minimize disruptions to Exide and smooth its transition into bankruptcy. Accordingly, by the Motion, the Debtor is requesting the authority, but not the direction, under the Final Order to pay the Severance Obligations to former Employees in an

¹⁶ The Canadian Employees share the same Vacation Time policy as Employees, except that Canadian Employees who work for the Debtor for less than six months are not entitled to any Vacation Time. Just as with the Employees, no Canadian Employee has Vacation Time that was carried over from last year.

amount of \$446,834, such that no former Employee shall receive payment in excess of the \$12,475 priority cap.

32. **Additional Non-Insider Compensation Programs:** In the ordinary course of business, the Debtor offers various additional programs (collectively, the “Non-Insider Compensation Programs”) to its non-insider Employees, including some Union Employees under their relevant CBAs, outside of weekly or bi-weekly payroll. Each of the Non-Insider Compensation Programs are consistent with industry practices and use a variety of benchmarks to determine the various non-insider participants’ eligibility for payments from, among others, performance, safety, sales volume, loyalty, lead core collection volumes, and financial metrics. Under the plans described below, approximately 2,325 of the Employees are eligible or qualified to receive payment.

33. As set forth in greater detail below, and except for the Plant Level Incentive Programs and the Union Compensation Programs (each as defined herein), none of the payments under the Non-Insider Compensation Programs come due in the Interim Period. In certain instances, the amounts due under the Non-Insider Compensation Programs exceed the \$12,475 priority cap. However, such payments represent compensation for services provided over an extended period of time, and, thus, the amounts exceeding the cap are commensurate with services provided over such periods. Additionally, these programs are an important component of an Employee’s overall compensation and provide substantial value to the Debtor’s estate because they encourage Employees to achieve certain performance targets. Accordingly, the Debtor seeks authority, but not direction, in connection with the Final Order, to make such payments. As of the Petition Date, approximately \$1,634,000 is owed in the aggregate on account of the Non-Insider Compensation Programs.

(a) **Bristol Incentive Plan.** The Debtor is currently winding down its operations in Bristol, Tennessee (the "Bristol Plant") and intends to close the Bristol Plant by July 2013. The efficient and timely closure of the Bristol Plant is crucial to the Debtor's continued operations. To ensure that the 130 remaining Employees responsible for the wind-down of the Bristol Plant (the "Bristol Employees") complete their work on schedule and service the final customer orders at the Bristol Plant in a timely fashion, the Debtor has offered an incentive payment to be paid to the Bristol Employees upon the completion of their work at the Bristol Plant. To receive such payment, the Bristol Employees must remain at the Bristol Plant for the required wind-down period. The aggregate amount due under this incentive program, which requires the relevant Employees to meet certain environmental, health, safety, production, quality, shipments, and customer review targets, is \$1,084,000, with such payments coming due between July 15, 2013 through July 31, 2013. Given the importance of the timely closure of the Bristol Plant to the Debtor's overall operations, it is beneficial to the estate and overall value to make these payments when and if they come due.

(b) **Branch Core Incentive Plan.** The Debtor offers an incentive plan to certain of its branch Employees based on the volume of pounds of lead cores collected. Eligible personnel include branch managers, sales representatives, service managers, service supervisors, service technicians, and servicers. The plan year runs from April 1, 2012 to March 31, 2013. The Debtor estimates that approximately 43 Employees have satisfied the criteria for payment eligibility under this plan for a total aggregate payment of \$36,400 due on July 15, 2013.

(c) **Motive Power Service Manager Incentive Program.** The Debtor offers an incentive plan to five eligible Motive Power service managers based on profitability and branch service metrics. The amount of the incentive payment is determined by the prior year's performance. The Debtor estimates that, based on the April 1, 2012 to March 31, 2013 incentive period, approximately \$2,000 is due under this incentive program on July 15, 2013 to one eligible Employee.

(d) **Motive Power Branch Manager Incentive Program.** The Debtor offers an incentive program to eligible Motive Power branch managers based on their personal goals, as well as branch profitability, and gross margin targets. The Debtor estimates that, based on the April 1, 2012 to March 31, 2013 incentive period, four Employees have satisfied these metrics and have qualified for payment of approximately \$77,500 due under this incentive program on July 15, 2013.

(e) **Industrial Energy Americas Sales Incentive Program.** In addition, the Debtor offers an incentive plan based on profitability targets and personal sales revenue quotas and gross margin percentage targets. The Debtor estimates that, based on the April 1, 2012 to March 31, 2013 incentive period, thirteen Employees have satisfied these metrics, and qualify for payment of \$201,200 due under this incentive program on July 15, 2013.

(f) **Plant Level Incentive Programs.** At certain of its plants, the Debtor offers various incentive programs that are based on achieving perfect attendance, remaining loyal to Exide, meeting various individual productivity and/or plant-wide safety or productivity metrics, or referring employees to Exide (collectively, the "**Plant Level Incentive Programs**"). Depending on the applicable program, payments are made on a

weekly, quarterly, monthly or annual basis, except for the longevity incentive program at the Vernon, California plant which increases hourly pay by \$0.10 for Employees with 10 to 19 years of service and by \$0.20 for Employees with 20 or more years of service.

Under these plans, approximately 1,700 Employees, of which 540 are Union Employees, are eligible to receive payment, depending on various benchmarks related to, among other things, performance, safety, and financial metrics. As of the Petition Date, approximately \$54,000 is owed on account of the Plant Level Incentive Programs. The Debtor seeks authority, but not direction, in connection with the Interim Order, to make such payment and to continue with such programs in the ordinary course.

(g) **Quarterly Sales Incentive Plans.** The Debtor offers various sales incentive plans that are paid on a quarterly basis and apply to 250 of its Employees. Employees qualify under these plans by meeting certain targets that apply to sales volume and revenue, gross margin, working capital, and accounts receivable turnover. Some incentive plans also depend on the Employees' branch locations or territories. At three of the Debtor's locations where battery cores are collected, one additional metric is the volume of such collections. Based on the metrics satisfied in April 2013, the Debtor estimates that \$480,000 is due under these incentive programs to approximately 250 eligible Employees on August 15, 2013.

(h) **Union Compensation Programs.** There are several incentive programs included within the CBAs (collectively, the "Union Compensation Programs"). One such program is the Fort Smith Loyalty Program, which is designed to promote loyalty among the Union Employees located at the plant in Fort Smith, Arkansas. The Debtor believes that 190 Union Employees have qualified for this incentive program,

which will cost approximately \$178,500 due in the Interim Period. By this Motion, the Debtor seeks to continue to honor its obligations, in the ordinary course of business and consistent with its past practice, relating to its various Union Compensation Programs. The Debtor seeks authority, but not direction, in connection with the Interim Order, to make such payments.

II. AUTHORIZATION, BUT NOT DIRECTION, TO PAY PREPETITION BENEFITS AND CONTINUATION OF BENEFIT PROGRAMS

A. The Employee Benefit Obligations

34. In the ordinary course of business, the Debtor maintains various customary plans and policies to provide the Employees with the Health Benefits, the Employee Insurance Benefits, the Other Employee Benefits, and the Retirement Benefits (each as defined herein), in addition to the costs associated thereto (collectively, the "Employee Benefits").

35. By the Motion, the Debtor seeks an order authorizing, but not obligating, the Debtor to (i) make prepetition contributions and pay any prepetition amounts associated with the Employee Benefits and (ii) continue its ordinary course employee benefit plans and programs during the postpetition reorganization process in the ordinary course in accordance with prepetition practices. Though the Debtor believes that such programs constitute ordinary course of business expenses authorized under the Bankruptcy Code and applicable law, out of an abundance of caution, the Debtor seeks authority, but not direction, to continue such programs during the pendency of the Chapter 11 Case. The Debtor estimates the cost of such benefit maintenance to be approximately \$24,874,000 annually.

36. Additionally, the Debtor seeks the authority, but not direction, to honor Employee Benefits for certain former Employees for a limited duration, commensurate with their prepetition expectations. The Debtor estimates the cost of maintaining these benefits for these

former Employees will cost the estate \$270,700 and is a relatively modest expenditure to provide these former Employees with the assurance that they have benefits coverage consistent with their prepetition expectations having suffered a loss in employment. The Debtor believes that, in its sound business judgment, this proposed expenditure of estate assets reinforces its strong commitment to its Employee base and will buoy overall morale, which is critical as Exide enters into a chapter 11 case in which it will be seeking to execute an operational turnaround. Further, no one former Employee will exceed the \$12,475 priority cap on account of these proposed Employee Benefits payments.

37. **The Health Benefits.** An important element of the Employee Benefits is the medical, dental, vision, and prescription drug insurance, which the Debtor provides for all its current Employees and certain former Employees primarily through a variety of self-insured and premium-based insurance plans (collectively, the “Health Plans”).¹⁷

38. Current salaried and non-union hourly Employees pay approximately 26% of the total contributions to the Health Plans. The Debtor pays the remaining amount. Contribution sharing ratios for the Union Employees are dictated by each individual CBA, and vary slightly depending on the particular CBA. The Debtor estimates that as of the Petition Date, there was approximately \$695,000 outstanding on account of the Health Plans for approximately 2,900 current and former Employees.

(a) **Self-Insured Health Plans:** Under the self-insured Health Plans (including medical, dental, and prescription drugs for certain Employees) (the “Self-Insured Health Plans”), an Employee submits claims to a claims administrator. The claims administrator notifies the Debtor of the claims, and upon receipt of a wire transfer

¹⁷ The Debtor also offers the Vision Service Plan (the “VSP”). The VSP is an insured component that is added onto the Debtor’s Health Plan. It has a fixed price per Employee, which is funded by the Employees.

of funds from the Debtor, pays the health provider for the services rendered to the Employee.¹⁸ There is typically a one to three month gap between when the Employee receives the medical care and submits the claim, and there is also a lag time in processing claims (the “Pipeline Self-Insured Claims”). The Debtor’s average monthly cost for maintaining its Self-Insured Health Plans is approximately \$3,200,000, which includes costs of administration and satisfaction of Pipeline Self-Insured Claims. Based on the historical realization of claims for medical care under the Self-Insured Health Plans during the processing period, the Debtor estimates that, as of the Petition Date, the Pipeline Self-Insured Claims aggregate to approximately \$5,030,000. The Debtor thus seeks to maintain its Self-Insured Health Plans in the ordinary course going-forward and to cover the outstanding Pipeline Self-Insured Claims as of the Petition Date to the extent this Court’s authority to do so is needed.¹⁹

¹⁸ Pursuant to the requirements of the Consolidated Omnibus Budget Reconciliation Act of 1986 (“COBRA”), the Debtor provides temporary continuation of healthcare benefits at group rates to former Employees, including former Union Employees, and eligible dependents. Because the Debtor’s Health Plans are self-insured, the Debtor is responsible for payment of amounts over the premiums paid by the former Employees (the “COBRA Payments”). In order to comply with COBRA requirements, the Debtor requests that former Employees, and former Union Employees, and eligible dependents retain the right to coverage under the Debtor’s Health Plans in accordance with the requirements of the terms of COBRA and request authorization to pay any obligations arising under such plans, regardless of when such obligations accrued. Based on the amount of COBRA Payments the Debtor has made from May 1, 2012 to April 1, 2013, the Debtor’s average monthly COBRA Payments total approximately \$48,000 for former non-Union Employees and \$30,000 for former Union Employees and their eligible dependents, for an aggregate average monthly amount of \$78,000. Within that same timeframe, eligible former Employees contributed an average monthly amount of \$6,700 and former Union Employees contributed an average monthly amount of \$4,300 to continue these healthcare benefits.

¹⁹ The Debtor also provides medical, dental, and prescription drug benefits to certain of its retired salaried employees (the “Retired Salaried Health Benefits”). The Debtor is self-insured for the Retired Salaried Health Benefits. The Debtor pays approximately \$220,280 in annual claims for former salaried employees covered by these plans. This plan is closed to new entrants. The amounts owed for the Retired Salaried Health Benefits, as of the Petition Date, are included in the Pipeline Self-Insured Claims. The Debtor also provides medical and prescription drug benefits to certain of its retired hourly employees (the “Retired Hourly Health Benefits”). These benefits are provided as a result of United Auto Workers’ contract negotiations related to its CBA. There are no active hourly Employees covered by these agreements. The amounts owed for the Retired Hourly Health Benefits, as of the Petition Date, are included in the Pipeline Self-Insured Claims discussed above. At this time, the Debtor, subject to the requirements of Bankruptcy Code section 1114, proposes to honor any such benefits.

(b) **HRA and Wellness Plan**: The Debtor offers salaried and non-union hourly Employees a health plan (the “HRA and Wellness Plan”) that includes a health reimbursement account (“HRA”). Upon enrolling in the HRA and Wellness Plan, \$150 is credited to an HRA account for each Employee. Upon completing certain wellness activities, the eligible Employees can receive additional incentives up to \$350. The Debtor contracts with a wellness provider who administers a Wellness Plan and tracks completion of wellness activities by participants. Upon completion of an activity, the wellness provider sends the incentive amount to the claims administrator. The participant submits health-related claims to the claims administrator, and the claims administrator notifies the Debtor of Employee claims. Upon receiving a wire transfer of funds from the Debtor, the claims administrator reimburses the Employee for the claimed amount. There is a lag time in processing claims and there is also usually a gap between when the Employee incurs reimbursable expenses and submits a claim to the claims administrator. The estimated annual cost to the Debtor for offering the HRA and Wellness Plan, including the employee assistance plan, is \$670,000. As of the Petition Date, the Debtor estimates that the HRA and Wellness Plan expenses outstanding are \$56,000.²⁰

39. As with the Unpaid Compensation, the Employees and their families rely on the Debtor to provide continuing health care. Accordingly, by the Motion, the Debtor seeks the authority, but not the direction, to continue the Health Plans, including the Self-Insured Health Plans, the Pipeline Self-Insured Claims, the HRA and Wellness Plan, the VSP, and the Union

²⁰ The Debtor also purchases health benefits for some of the Union Employees covered by United Steelworkers and International Brotherhood of the Teamsters negotiated contracts (the “Union Health Plans”). The Union Health Plans are held by the unions, and the Debtor is required to pay a premium. The average monthly cost of these health benefits is approximately \$103,000. The Debtor typically pays the monthly premiums in the middle of the month they are due. As of the Petition Date, the Debtor does not owe any premiums for the Union Health Plans.

Health Plans (collectively, the “Health Benefits”), and to pay any premiums and claim amounts relating to the Health Benefits to the extent they remain unpaid on the Petition Date.

40. **The Employee Insurance Benefits.**

(a) **Life Insurance and AD&D:** The Debtor provides Employees premium-based group term life insurance and accidental death and dismemberment insurance (the “Life Insurance” and “AD&D,” respectively).²¹ Salaried Employees receive coverage equal to one and one-half times current base salary. Hourly Employees receive the greater of one times current base salary or a fixed level of coverage based on the employee group. Coverage levels for the Union Employees covered by bargaining groups are dictated by the applicable CBA. Additional coverage is available to the Employees at their own cost. On average, the Debtor pays approximately \$33,200 per month for Life Insurance coverage and \$2,700 per month for AD&D for all the Employees. As of the Petition Date, the Debtor estimates that approximately \$35,000 is owed for Life Insurance and AD&D premiums.²²

(b) **Short-Term and Long-Term Disability Benefits:** The Debtor also provides the Employees with short- and long-term disability benefits (the “Short-

²¹ The Debtor also maintains workers’ compensation insurance for the benefit of the Employees, the terms of which are described in the Debtor’s Motion for Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 1107, and 1108, and Bankruptcy Rule 6003 Authorizing Debtor To (I) Maintain Existing Insurance Policies and Pay All Insurance Obligations Arising Thereunder; (II) Renew, Revise, Extend, Supplement, Change, or Enter into New Insurance Policies; and (III) Continue to Honor Insurance Premium Financing Obligations, filed contemporaneously herewith.

²² The Debtor also provides certain Employees with business travel accident insurance with a death benefit ranging from \$25,000 to \$1,000,000 per person (the “Business Travel Insurance”). The Business Travel Insurance was renewed on January 1, 2013. The Debtor pays approximately \$6,800 annually for the Business Travel Insurance for all Employees. As of the Petition Date, the Debtor does not owe any amounts for premiums for the Business Travel Insurance. The Debtor provides executives with international SOS insurance to provide emergency medical and evacuation services when traveling abroad (the “International SOS Insurance”). The Debtor pays approximately \$24,000 annually in premiums, which are next due on July 1, 2013. As premiums are paid in advance, as of the Petition Date, the Debtor does not owe any amounts for premiums for the International SOS Insurance. Under the Final Order, the Debtor requests authority, but not direction, to make all payments under the Business Travel Insurance and International SOS Insurance programs in the ordinary course of business.

Term Disability Benefits” and “Long-Term Disability Benefits,” respectively). Short-Term Disability Benefits are initially paid by a third-party administrator, and then are subsequently funded by the Debtor. Benefits for salaried Employees vary depending on years of service, with a maximum benefit of four weeks at full salary and 22 weeks at 60% or 80% of salary, depending on years of service. The benefit for hourly Employees varies. It may be a fixed weekly benefit or a percentage of pay. As of the Petition Date, the Debtor does not owe any amount for overhead to administer the Short-Term Disability Benefits and there are approximately \$110,000 of outstanding claims.²³ Moreover, the Union Employees at the Canon Hollow location are eligible for Long-Term Disability Benefits. The Debtor pays 100% of the premium for Long-Term Disability Benefits for the Union Employees at Canon Hollow. The Debtor’s portion of the premium for the Union Employees at Canon Hollow is approximately \$635 per month. As of the Petition Date, the Debtor estimates that the amount owed for the Cannon Hollow Long-Term Disability premium is approximately \$635.²⁴

41. The Canadian Employees are also eligible for certain Health Benefits. The Canadian Employees have life insurance, accidental death and dismemberment, long-term disability, short-term disability, paramedical, medical and out-of-country care, vision, prescription drug, and dental coverage (collectively, the “Canadian Employee Health Benefits”). These Health Benefits, with the exception of long-term disability coverage, are wholly paid for by the Debtor, for the monthly amount of \$9,200. By the Motion, the Debtor seeks authority to continue

²³ In addition, the Employees are eligible for Long-Term Disability Benefits after 26 weeks of short term disability and receive approximately 60% income replacement. One hundred percent of the premium for all salaried and non-union hourly Employees is funded by the Employees through payroll deduction.

²⁴ Moreover, the Debtor offers Employees the ability to purchase supplemental life insurance for the Employees and their dependents, legal services insurance, and property/casualty insurance (the “Other Insurance Programs”). The Other Insurance Programs are fully funded by the Employees through payroll deduction.

the Canadian Employee Health Benefits and to pay premium amounts relating to such benefits to the extent they remain unpaid on the Petition Date.

42. By the Motion, the Debtor seeks authority to continue the Life Insurance, AD&D, the Business Travel Insurance, the International SOS Insurance, the Short-Term Disability Benefits, the Long-Term Disability Benefits, and the Other Insurance Programs (collectively, the “Employee Insurance Benefits”) and to pay premium amounts and claim amounts relating to the Employee Insurance Benefits to the extent they remain unpaid on the Petition Date.

43. **The Other Employee Benefits.**

(a) **Flexible Spending Accounts:** The Debtor also offers Employees the opportunity to use tax-advantaged flexible spending accounts (“FSA”) to use pre-tax dollars toward the payment of medical or dependent care expenses. The Debtor deducts Employee contributions from the participant’s earnings and holds the contributions in an account. The participant submits claims to the claims administrator, and the claims administrator notifies the Debtor of the Employee claims. Upon receiving a wire transfer of funds from the Debtor, the claims administrator reimburses the Employee for the claimed amount. This program is sponsored by the Debtor, but also covers non-Debtor employees. As of the Petition Date, the Debtor estimates that \$570,000 is outstanding on account of the FSA.

(b) **The Employee Vehicle Benefit Program:** In the ordinary course of business, Exide maintains a car lease program (the “Employee Vehicle Benefit Program”) where the Debtor provides a company-leased vehicle to certain eligible Employees in the Debtor’s sales force. The Debtor pays approximately \$127,000 per

month to Enterprise on account of the Employee Vehicle Benefit Program. As of the Petition Date, the Debtor does not owe any accrued and unpaid amount on account of the Employee Vehicle Benefit Program.

(c) **Employee Education Programs:** The Debtor offers the Employees educational benefits, including a scholarship program and a tuition reimbursement program (collectively, the “Employee Education Programs,” and, together with FSA and the Employee Vehicle Benefit Program, the “Other Employee Benefits”). The Employee Education Programs are offered on a case-by-case basis to certain of the Debtor’s Employees at no cost to the Employee. As of the Petition Date, the Debtor owes approximately \$57,000 for the Employee Education Programs.

44. **Retirement Benefits.**

(a) **Pension Plan:** The Debtor sponsors one defined benefit pension plan (the “Pension Plan”), covering virtually all of the Debtor’s active and former Employees, active and former Canadian Employees, former employees of Gould National Battery, which was purchased by Exide in 2000, and hourly Union Employees covered by certain CBAs. The Pension Plan is closed to new entrants, and benefits under the Pension Plan are frozen for all participants. The majority of administration and actuarial fees are paid from the pension trust. As of the Petition Date, the Debtor owes \$10,500 for administrative and actuarial fees in connection with the Pension Plan.²⁵

(b) **401(k) Plan:** The Debtor offers its current Employees the opportunity to participate in a 401(k) savings plan (the “401(k) Plan,” and together with

²⁵ Under the Employee Retirement Income Security Act of 1974 (“ERISA”), the Debtor is scheduled to make its next minimum funding contribution in connection with the Pension Plan in September 2013 in the amount of \$320,000. The Debtor requests authority, but not direction, to continue funding the pension plan pursuant to ERISA in connection with the Final Order.

the Pension Plan, the “Retirement Benefits”). The Employees may contribute up to 50% of base pay.²⁶ For certain Union Employee participants, the Debtor provides matching contributions, as dictated by the Union Employees’ CBAs.²⁷ Administration and investment fees for the union hourly 401(k) Plan are paid by the Debtor.²⁸ Other than \$5,000 in administrative fees, the Debtor does not believe it owes any prepetition amounts related to the 401(k) Plan.

45. The Debtor believes that performing its obligations under the above-described Employee Benefits is important for preserving the value of the Debtor’s estate. Any disruption in the benefits under such programs will call into question the Debtor’s commitment to its Employees, who are essential to continuing the operations of the Debtor.

B. The Employee Withholdings

46. **Payroll Taxes and Non-Tax Related Deductions:** In connection with paying the Unpaid Compensation and the Employee Benefit Obligations, the Debtor routinely deducts and/or withholds from the Employee’s paychecks amounts that the Debtor is required to transmit to third parties. For example, the Debtor deducts from the Employees’ earnings (a) payroll taxes related to federal, state, and local income taxes, FICA, Social Security, and Medicare taxes for remittance to the appropriate federal, state, or local taxing authority; (b) employee contributions for health benefits and health care and dependent care spending accounts; (c) employee contributions to employee life insurance, long-term care insurance, long-

²⁶ Prior to the Petition Date, the Debtor provides a 3% safe harbor contribution to all salaried and non-union hourly Employees and a 50% matching contribution on the first 6% of salary deferrals for salaried Employees. These safe harbor and matching contributions were suspended as of June 1, 2013.

²⁷ The match for the Union Employees is contributed once a year, after the end of the plan year, which is December 31. It is estimated that the matching contribution for union-hourly participants for the plan year ending December 31, 2013 will be approximately \$17,300.

²⁸ In addition, as of the Petition Date, the Debtor owes approximately \$7,200 for calendar year 2013 hourly Employee match accrual. This amount, however, will not be funded until calendar year 2014.

term disability insurance, voluntary property and casualty insurance, and personal accident insurance; (d) employee contributions to 401(k) plans and 401(k) loan repayments; (e) legally ordered deductions, such as child support and garnishments; (f) voluntary contributions to the United Way; (g) employee parking and public transportation costs; and (h) union dues (collectively, the “Employee Withholdings”). The Debtor then forwards amounts equal to the Employee Withholdings from general operating accounts to appropriate third-party recipients. As of the Petition Date, the Debtor does not owe any amounts for unremitted Employee Withholdings, including payroll-related taxes and other withheld amounts. These funds were deducted from Employee earnings, but due to the commencement of the Chapter 11 Case, may not have been forwarded to the appropriate third-party recipients. Such withheld funds, to the extent they remain in the Debtor’s possession, constitute moneys held in trust and therefore are not property of the Debtor’s estate. Out of an abundance of caution, however, by the Motion, the Debtor seeks authority, in its discretion, to forward the Employee Withholdings to the appropriate parties.

C. The Employee Expense Obligations

47. Prior to the Petition Date, and in the ordinary course of its business, the Debtor routinely reimbursed the Employees for certain approved, reasonable Employee Expense Obligations incurred in the scope of their employment, including expenses for travel, lodging, professional seminars and conventions, ground transportation, meals, supplies, miscellaneous business expenses, and relocation expenses.²⁹ Accordingly, all the Employee Expense Obligations were incurred with the understanding that they would be reimbursed by the Debtor.

²⁹ Moreover, the Debtor offers employee relocation assistance (the “Relocation Assistance Program”). Benefits under the Relocation Assistance Program include reimbursement of certain expenses related to home sale, new home search, new home purchase, and household goods shipment. The Debtor currently has 11 relocations in process.

Thus, the Debtor's ability to pay the Employee Expense Obligations has a significant effect, in particular, on the Debtor's sales force, which is on the road incurring expenses in the course of doing work to benefit the Debtor's business.³⁰

48. There is a lag time between the time expenses are incurred and the time an expense is processed and reimbursed. Consequently, it is difficult for the Debtor to determine with precision the actual amount of incurred but not reported reimbursable expenses as of any particular time. Typically, however, the average aggregate monthly amount expended by the Debtor for the Employee Expense Obligations is approximately \$550,000 to \$600,000.

49. It would be inequitable to require the Employees to personally bear any approved business-related expenses they incurred in furtherance of their responsibilities to the Debtor. Accordingly, to avoid harm to the Employees, the Debtor seeks to be authorized, but not required, to pay the prepetition Employee Expense Obligations and continue such policies, including the Relocation Assistance Program, on a post-petition basis, in accordance with prepetition practice, in the ordinary course of business.

III. AUTHORIZATION FOR THE BANKS

50. In addition, the Debtor requests entry of an order (a) authorizing all the Banks, when requested by the Debtor in its sole discretion, to receive, process, honor, and pay any and all checks, drafts, and other forms of payment, including fund transfers, on account of the Prepetition Employee Obligations and to the extent the Debtor has sufficient funds standing to its credit with the Banks, whether such checks or other requests were submitted before, on, or after

³⁰ The Debtor currently has 555 Employees with corporate American Express credit cards issued in their personal names. These Employees can charge business expenses using those credit cards and then submit expense reports to Exide for those expenses. The Employee receives the expense reimbursement from Exide via payroll. Alternatively, if the Employee pays cash for Employee Expense Obligations, the Employee can submit an expense report, and the Debtor reimburses the Employee through direct deposit after processing and approval of receipts.

the Petition Date; (b) authorizing the Banks to rely on the representations of the Debtor as to which checks are subject to the Motion, provided that any such Bank shall not have any liability to any party for relying on such direction and representations by the Debtor or for inadvertently honoring or dishonoring any check or fund transfer; (c) authorizing the Banks to receive, process, honor, and pay all prepetition and postpetition checks and fund transfers on account of the Prepetition Employee Obligations that had not been honored and paid as of the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments and that any such Bank shall not have any liability to any party for relying on such direction by the Debtor; and (d) authorizing the Debtor to issue new postpetition checks or effect new postpetition fund transfers to replace any checks, drafts, and other forms of payment which may be inadvertently dishonored or rejected.

APPLICABLE AUTHORITY

51. Courts in this District consistently authorize the payment (or other special treatment) of prepetition obligations in appropriate circumstances. In authorizing such payments, those courts generally rely on one of several legal theories rooted in Bankruptcy Code sections 507(a), 1107(a), 1108, 363(b), 105(a), and the “necessity of payment” doctrine. Here, this Court should follow the precedent in this District and authorize, but not direct, the Debtor to pay the Prepetition Employee Obligations. Failing to honor these obligations would have adverse consequences for the Debtor’s ability to operate its business during the Chapter 11 Case and, thus, the Debtor’s reorganization. Authority to pay the Prepetition Employee Obligations is, therefore, necessary to maximize the value of the Debtor’s estate for all creditors and stakeholders.

52. Accordingly, pursuant to sections 507(a), 1107(a), 1108, 363(b), 105(a), and the “necessity of payment” doctrine, the Debtor seeks authority to: (i) pay the Prepetition Employee Obligations, the Employee Benefit Obligations, the Employee Withholding, and the

Employee Expense Obligations; and (ii) continue its employment practices, benefits, programs, policies, and procedures in effect as of the Petition Date on a postpetition basis in the ordinary course of its business. The Debtor further requests that this Court authorize and direct the Bank(s) at which the Debtor maintains the account(s) from which the Debtor's payroll obligations are disbursed, to honor and pay all prepetition and postpetition checks issued to or to be issued and fund transfers requested or to be requested, by the Debtor in respect of the Prepetition Employee Obligations. The Debtor also seeks authority to issue new postpetition checks or fund transfer requests with respect to such prepetition obligations that may have been dishonored. The relief requested herein is essential and necessary to the Debtor's continuing operations in chapter 11, maximizing the value of the Debtor's estate, and to an effective reorganization of the Debtor's business.

A. Bankruptcy Code Sections 507(a)(4) and 507(a)(5) Authorize Payment of Prepetition Employee Obligations

53. As noted above, the payment of the Prepetition Employee Obligations is justified under several theories under the Bankruptcy Code. First, sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code require that certain claims for prepetition wages, salaries, commissions, vacation, sick leave, and employee benefit related contributions be accorded priority in payment in an amount not to exceed \$12,475 for each individual Employee (to the extent such amounts accrued within 180 days of the Petition Date). The Debtor believes that a substantial portion of the relief requested herein is within the statutory caps of Bankruptcy Code sections 507(a)(4) and 507(a)(5). As priority claims, the Debtor is required to pay such claims in full to confirm a chapter 11 plan. See 11 U.S.C. § 1129(a)(9)(B). Thus, granting the relief sought herein would affect only the timing, and not the amount of payment of the Prepetition Employee Obligations to

the extent they constitute priority claims, and would not have any material negative impact on recoveries for general unsecured creditors.

B. Bankruptcy Code Section 105 and the Doctrine of Necessity Support Payment of the Prepetition Employee Obligations.

54. Even if a particular claim is not entitled to priority, payment is nonetheless justified under Bankruptcy Code section 105(a) and the well-established “necessity of payment doctrine.” This Court’s power to use the doctrine of necessity in the Chapter 11 Case derives from this Court’s inherent equity powers and its statutory authority to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The United States Supreme Court first articulated the doctrine of necessity over a century ago, in Miltenberger v. Logansport Ry. Co., 106 U.S. 286 (1882), in affirming the authorization by the lower court of the use of receivership funds to pay pre-receivership debts owed to employees, vendors, and suppliers, among others, when such payments were necessary to preserve the receivership property and the integrity of the business in receivership. See id. at 309. The modern application of the doctrine of necessity is largely unchanged from the Court’s reasoning in Miltenberger. See In re Lehigh & New Eng. Ry., 657 F.2d 570, 581-82 (3d Cir. 1981) (“[I]n order to justify payment under the ‘necessity of payment’ rule, a real and immediate threat must exist that failure to pay will place the continued operation of the [debtor] in serious jeopardy.”).

55. The doctrine of necessity “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.” In re Ionosphere Clubs, Inc., 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989); see also In re Just for Feet, Inc., 242 B.R. 821, 826 (D. Del. 1999) (stating that where the debtor “cannot survive” absent payment of certain prepetition claims, the

doctrine of necessity should be invoked to permit payment); In re NVR L.P., 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (“[T]he court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.”); In re Eagle-Picher Indus., Inc., 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (“[T]o justify payment of a pre-petition unsecured creditor, a debtor must show that the payment is necessary to avert a serious threat to the chapter 11 process.”).

56. The United States Court of Appeals for the Third Circuit recognized the “necessity of payment” doctrine in In re Lehigh & New England Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981). The Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. Id. (stating a court may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); see also In re Motor Coach Indus. Int’l, Inc., Case No. 09-078, 2009 WL 330993, at *3 (D. Del. Feb. 10, 2009) (denying a stay pending appeal on the grounds that there is not a serious basis to challenge the doctrine of necessity in the Third Circuit); In re Just for Feet, Inc., 242 B.R. at 824-825 (noting that the Third Circuit permits Debtor to pay prepetition claims that are essential to continued operation of business).

57. The Debtor’s ability to maximize value depends, in large part, upon the motivation of the Employees whose efforts will be critical to the successful reorganization process. The Employees will be required to commit much of their time and energy to the Debtor’s reorganization efforts. Any disruption from Employee resignations or lack of morale could have adverse effects on the Debtor’s reorganization efforts. Most of the Debtor’s

Employees (and their families) are dependent upon the wages, salaries, reimbursements, and other benefits they receive from the Debtor.

58. If amounts owed are not received, insurance reimbursements are not made, or other benefits delayed, the Employees may suffer extensive personal hardship and in some cases will be unable to meet their “basic living” needs, causing harm to them and their families and potentially making it difficult or impossible for them to continue working for the Debtor. The Debtor believes that to maintain Employee morale, it is critical that it be authorized to pay each of its Employees all compensation amounts that have been earned under the Debtor’s prepetition contractual obligations or practices, subject to the limitations described herein.

C. **Payment of the Prepetition Employee Obligations is Authorized Under Bankruptcy Code Sections 1107(a) and 1108**

59. Moreover, the Debtor, operating its business as a debtor in possession under Bankruptcy Code sections 1107(a) and 1108, is a fiduciary “holding the bankruptcy estate and operating the business for the benefit of its creditors and (if the value justifies) equity owners.” In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the duties of a chapter 11 debtor in possession is the duty “to protect and preserve the estate, including an operating business’s going-concern value.” Id.

60. Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty “only . . . by the preplan satisfaction of a prepetition claim.” Id.; see also In re Mirant Corp., 296 B.R. 427, 429-30 (Bankr. N.D. Tex. 2003) (allowing debtor to pay claims “reasonably believe[d]” to be authorized under the CoServ test or whose payment was necessary “in the exercise of their business judgment . . . in order for [the debtors] to continue their respective businesses”). The CoServ court specifically noted that preplan satisfaction of prepetition claims would be a valid exercise of a debtor’s fiduciary duty when the payment “is the

only means to effect a substantial enhancement of the estate.” CoServ, 273 B.R. at 497. The court formulated a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor’s fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor’s going concern value, which is disproportionate to the amount of the claimant’s prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. at 498.

61. Payment of the Prepetition Employee Obligations meets the CoServ test.

The Debtor’s operations are complex, and rely on the skill and expertise of the Employees. Without the ability to pay the Employees, the Debtor’s ability to continue operations, and thus maximize the value of the estate, would be severely limited. Accordingly, consistent with its fiduciary duties as a debtor in possession under Bankruptcy Code sections 1107(a) and 1108, the Debtor should be authorized, but not directed, to pay all Prepetition Employee Obligations.

A. Payments of Prepetition Employee Obligations is Warranted Under Bankruptcy Code Section 363

62. Courts have also authorized payment of prepetition obligations under Bankruptcy Code section 363 where a sound business purpose exists for doing so. Specifically, under section 363 of the Bankruptcy Code, a bankruptcy court is empowered to authorize a chapter 11 debtor to expend funds in the bankruptcy court’s discretion outside the ordinary course of business. See 11 U.S.C. § 363. To obtain approval for the use of estate assets outside the ordinary course of business, the debtor must articulate a valid business justification for the requested use. See In re Ionosphere Clubs, Inc., 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1985). Payment of prepetition wage and salary claims to preserve and protect a debtor’s business and to ultimately reorganize, retain its currently working employees, and maintain positive employee

morale, even if such payment were deemed to be outside the ordinary course of business, is a sufficient business justification for such an authorization. See id. at 175. Accordingly, this Court should grant the requested relief under section 363 of the Bankruptcy Code.

B. Bankruptcy Code Sections 541 Authorizes Payment of the Employee Withholdings and Payment of Certain of the Prepetition Employee Obligations is Required by Law

63. A portion of the Prepetition Employee Obligations constitutes funds held in trust for payment to third parties. The payment of the Employee Withholdings will not prejudice the Debtor's estate because such withholdings are held in trust for the benefit of the related payees and, thus, do not constitute property of the Debtor's estate under Bankruptcy Code section 541. See 11 U.S.C. § 541(d); Begier v. IRS, 496 U.S. 53 (1990). Indeed, failure to pay these amounts could subject the Debtor and its officers and directors to liability. See, e.g., John F. Olsen, et. al., Director & Officer Liability: Indemnification and Insurance § 3:21 (2003) (“[S]ome states hold corporate officers personally liable for any sales tax and penalty owed and not paid by the corporation regardless of cause”). Moreover, payments which are critical to the retention and morale of the Debtor's workforce actually add value to the estate because an unplanned reduction in the workforce or Employee productivity could have an adverse effect on recoveries to creditors and stakeholders.

64. The relief requested herein is commonly granted in this District. See, e.g., In re Synagro Tech., Inc. et al., Case No. 13-11041 (BLS) (Bankr. D. Del. April 25, 2013) (granting interim relief); In re School Specialty, Inc., et al., Case No. 13-10125 (KJC) (Bankr. D. Del. January 30, 2013) (granting interim relief) and (Bankr. D. Del. Feb. 25, 2013) (granting final relief); In re LCI Holding Co., Inc., Case No. 12-13319 (KG) (Bankr. D. Del. Dec. 13, 2012) (granting interim relief); In re A123 Sys., Inc., Case No. 12-12859 (KJC) (Bankr. D. Del. Oct. 18, 2012) (granting interim relief) and (Bankr. D. Del. Nov. 8, 2012) (granting final relief); In re

CHL, Ltd., Case No. 12-12437 (KJC) (Bankr. D. Del. Aug. 31, 2012) (granting interim relief) and (Bankr. D. Del. Sept. 24, 2012) (granting final relief for payments in excess of the section 504(a)(4) priority cap); In re WP Steel Venture LLC, Case No. 12-11661 (KJC) (Bankr. D. Del. June 1, 2012); In re DSI Holdings, Inc. et al., Case No. 11-11941 (KJC) (Bankr. D. Del. June 28, 2011); In re Tribune Co., Case No. 08-13141 (KJC) (Bankr. D. Del. Dec. 10, 2008).

65. For the reasons set forth above, the Debtor submits that the relief requested herein is in the best interest of the Debtor, its estate, its creditors, its stakeholders, and other parties in interest, and therefore, should be granted.

66. As a precaution, the proposed Interim Order and the Final Order provide that the relief granted therein shall not constitute or be deemed an assumption of any of the employment and service agreements to which the Debtor is a party or any of the Debtor's Employee benefit policies, plans, programs, practices, and procedures under Bankruptcy Code section 365.

RESERVATION OF RIGHTS

67. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's right to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an assumption or rejection of any executory contract or unexpired lease pursuant to Bankruptcy Code section 365; or (e) otherwise affect the Debtor's rights under Bankruptcy Code section 365 to assume or reject any executory contract with any party subject to the Motion.

IMMEDIATE RELIEF IS NECESSARY TO AVOID IMMEDIATE AND IRREPARABLE HARM

68. Bankruptcy Rule 6003 provides that the relief requested in the Motion may be granted if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P.

6003; see also In re First NLC Fin. Servs., LLC, 382 B.R. 547, 549 (Bankr. S.D. Fla. 2008) (holding that Rule 6003 permits entry of retention orders on an interim basis to avoid irreparable harm). The Third Circuit has interpreted the language “immediate and irreparable harm” in the context of preliminary injunctions. In that context, the court has instructed that irreparable harm is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation. See, e.g., Norfolk S. Ry. Co. v. City of Pittsburgh, 235 Fed. Appx. 907, 910 (3d Cir. 2007) (citing Glasco v. Hills, 558 F.2d 179, 181 (3d Cir. 1977)). Furthermore, the harm must be shown to be actual and imminent, not speculative or unsubstantiated. See, e.g., Acierno v. New Castle County, 40 F.3d 645, 653-55 (3d Cir. 1994). The Debtor submits that for the reasons already set forth herein, the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

WAIVER OF ANY APPLICABLE STAY

69. The Debtor also requests that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtor seek in the Motion is necessary for the Debtor to operate without interruption and to preserve value for its estate. Accordingly, the Debtor respectfully requests that the Court waive the fourteen day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

NOTICE

70. Notice of the Motion will be given to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney for the District of Delaware; (iii) counsel to the agent under the proposed debtor in possession financing;

(iv) counsel to the agent for the Debtor's prepetition secured lenders; (v) the indenture trustee for each of the Debtor's secured and unsecured outstanding bond issuances; (vi) counsel to the unofficial committee of senior secured noteholders; (vii) the Internal Revenue Service; (viii) the Securities and Exchange Commission; (ix) the Banks; (x) the unions; (xi) the Pension Benefit Guaranty Corporation; (xii) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; and (xiii) all parties entitled to notice pursuant to Local Bankruptcy Rule 9013-1(m) (collectively, the "Notice Parties"). The Debtor submits that no other or further notice need be provided.

NO PRIOR REQUEST

71. No previous request for the relief sought herein has been made to this Court or any other court.

CONCLUSION

WHEREFORE, the Debtor respectfully request that the Court enter the Interim Order and the Final Order, substantially in the forms annexed hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: Wilmington, Delaware
June 10, 2013

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Anthony W. Clark

Anthony W. Clark (I.D. No. 2051)
One Rodney Square
P.O. Box 636
Wilmington, Delaware 19899-0636
Telephone: (302) 651-3000
Fax: (302) 651-3001

- and -

Kenneth S. Ziman (*pro hac vice admission pending*)
J. Eric Ivester (*pro hac vice admission pending*)
Four Times Square
New York, New York 10036-6522
Telephone: (212) 735-3000
Fax: (212) 735-2000

- and -

James J. Mazza, Jr. (*pro hac vice admission pending*)
155 N. Wacker Dr.
Chicago, Illinois 60606-1720
Telephone: (312) 407-0700
Fax: (312) 407-0411

Proposed Counsel for Debtor and Debtor in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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 In re: : Chapter 11
 :
 EXIDE TECHNOLOGIES, : Case No. 13-11482
 :
 Debtor.¹ : **Related Docket No. ____**
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INTERIM ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 363, 507(a), 541, 1107(a), AND 1108 AND BANKRUPTCY RULES 6003 AND 6004, (I) AUTHORIZING, BUT NOT DIRECTING, THE DEBTOR TO PAY PREPETITION EMPLOYEE OBLIGATIONS; (II) AUTHORIZING, BUT NOT DIRECTING, THE DEBTOR TO CONTINUE CERTAIN EMPLOYEE BENEFIT PROGRAMS IN THE ORDINARY COURSE; AND (III) AUTHORIZING, BUT NOT DIRECTING, APPLICABLE BANKS AND FINANCIAL INSTITUTIONS TO HONOR PREPETITION CHECKS FOR PAYMENT OF THE PREPETITION EMPLOYEE OBLIGATIONS

Upon consideration of the motion (the “Motion”)² of the above captioned debtor and debtor in possession (the “Debtor”) for entry of the Interim Order and the Final Order, under Bankruptcy Code sections 363, 507(a)(4), 507(a)(5), 541, 1107(a), and 1108 and Bankruptcy Rules 6003 and 6004, (i) authorizing, but not directing, the Debtor, inter alia, to pay prepetition wages, salaries, commissions, incentive program payments, employee benefits, and reimbursable expenses; (ii) authorizing, but not directing, the Debtor to continue on a postpetition basis the maintenance of any or all employee benefit programs in the ordinary course in accordance with prepetition practices; (iii) authorizing, but not directing, the applicable banks and financial institutions to honor all related checks and electronic payment requests authorized pursuant to this Motion in accordance with this Interim Order provided that sufficient funds are available in

¹ The last four digits of the Debtor’s taxpayer identification number are 2730. The Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

the applicable accounts to make payments; and (iv) granting related relief as further described herein; and upon the First Day Declaration; and this Court having found that it has jurisdiction over this matter under 28 U.S.C. § 157 and 1334; and this Court having found this is a core proceeding under 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper under 28 U.S.C. § 1408 and 1409; and the Debtor having provided due and sufficient notice of the Motion under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is necessary to avoid immediate and irreparable harm to the Debtor; and it appearing that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and after due deliberation thereon and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED as set forth herein.
2. The final hearing on the Motion is set for _____, 2013 at ____:____ __.m. (Eastern Time). Any objections or responses to the entry of the proposed Final Order shall be filed and served upon proposed counsel for the Debtor so as to be received by 4:00 p.m. (Eastern Time) on or before seven (7) days before the final hearing.
3. The Debtor is authorized, but not directed, in its sole discretion, to pay and honor certain Unpaid Compensation as and when such obligations are due; provided however, that prior to the entry of the Final Order granting the relief requested in the Motion, no Employee may receive payment of amounts in excess of the limits provided for by Bankruptcy Code sections 507(a)(4) or 507(a)(5), pursuant to this Interim Order.
4. The Debtor is authorized, but not directed, in its sole discretion, to pay and

honor prepetition obligations to pay Industrial Agencies as and when they are due; provided, however, that prior to the entry of the Final Order granting the relief requested in the Motion, no one Industrial Agent will receive payment of an amount in excess of \$12,475.

5. The Debtor is authorized, but not directed, in its sole discretion, to pay and honor prepetition obligations that have accrued under the Employee Benefit Programs, including, but not limited to, Health Benefits, Employee Insurance Benefits, the Other Employee Benefits, and the Retirement Benefits, and to continue the Employee Benefit Programs on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

6. The Debtor is authorized, but not directed, in its sole discretion, to remit all Employer Withholdings to the appropriate third parties, as and when such obligations are due.

7. The Debtor is authorized, but not directed, in its sole discretion, to pay and honor its obligations under the Plant Level Incentive Program and the Union Compensation Programs, and to continue such Non-Insider Compensation Programs on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

8. The Debtor is authorized, but not directed, in its sole discretion, to continue to honor its obligations, in the ordinary course of business and consistent with its past practice, relating to its various Union Compensation Programs.

9. The Debtor is authorized, but not directed, in its sole discretion, to make prepetition contributions and pay any prepetition amounts, including any premiums and claim amounts, associated with the Employee Benefits for current and certain former Employees (including, without limitation, Health Benefits, Employee Insurance Benefits, Flexible Spending Accounts, Employee Vehicle Benefit Program, and Retirement Benefits) and to continue the Employee Benefits and Health Plans on a postpetition basis in the ordinary course and in

accordance with its prepetition practices.

10. Former Employees shall retain the right to coverage under the Debtor's Health Plans in accordance with the requirements of COBRA, and the Debtor is authorized, but not directed, to pay any portion of the amounts due under the Health Plans with respect to such Employees.

11. The Debtor is authorized, but not directed, in its sole discretion, to make prepetition contributions and pay any prepetition amounts, including any premiums and claim amounts, associated with the Canadian Employee Benefits for current and certain former Canadian Employees and to continue the Canadian Employee Benefits on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

12. The Debtor is authorized, but not directed, in its sole discretion, to pay prepetition Employee Expense Obligations and to continue such policies for business-related expenses, including the Relocation Assistance Program, on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

13. The Debtor is authorized, but not required, to continue to honor all obligations to the Union Employees under the terms of the existing CBAs.

14. The Debtor is authorized, but not directed, in its sole discretion, to honor, continue, and modify, in the ordinary course, its Employee Benefit Programs.

15. All applicable banks and other financial institutions are authorized, but not directed, (a) to receive, process, honor, and pay all such checks and electronic payment requests authorized pursuant to this Interim Order, provided that sufficient funds are available in the applicable accounts to make the payments, and (b) to rely on the Debtor's direction to pay amounts in accordance with this Interim Order provided that sufficient funds are available in the

applicable accounts to make the payments without any duty of further inquiry and without liability for following the Debtor's instructions.

16. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any Employee or other third party.

17. Nothing in the Motion or this Interim Order shall be construed as impairing the Debtor's right to contest the validity, priority, or amount of any Prepetition Employee Obligations allegedly due or owing, and all of the Debtor's rights with respect thereto are hereby reserved.

18. Any party receiving payment from the Debtor is authorized and directed to rely upon the representations of the Debtor as to which payments are authorized by this Interim Order.

19. Nothing in the Motion or this Interim Order or the relief granted (including any actions taken or payments made by the Debtor pursuant to the relief) shall (a) be construed as a request for authority to assume any executory contract under Bankruptcy Code section 365; (b) waive, affect, or impair any of the Debtor's rights, claims, or defenses, including, but not limited to, those arising from Bankruptcy Code section 365, other applicable law, and any agreement; (c) grant third-party beneficiary status or bestow any additional rights on any third party; or (d) be otherwise enforceable by any third party.

20. To the extent there is any inconsistency between the terms of the interim or final order approving the Debtor's proposed postpetition financing, if and when entered, and this Interim Order, the terms of the interim or final order approving the proposed postpetition financing, as applicable, shall govern.

21. Authorizations given to the Debtor in this Interim Order empower but do not direct the Debtor to effectuate the payments specified herein.

22. The Debtor is authorized, but not directed, to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

23. No provision of this Interim Order shall be construed as authority to make any payment which is subject to the provisions of Bankruptcy Code section 503(c).

24. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

25. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be effective and enforceable immediately upon entry hereof.

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

Dated: Wilmington, Delaware
_____, 2013

UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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 :
 In re: : Chapter 11
 :
 EXIDE TECHNOLOGIES, : Case No. 13-11482
 :
 Debtor.¹ : **Related Docket Nos.** _____
 :
 ----- X

FINAL ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 363, 507(a), 541, 1107(a) AND 1108 AND BANKRUPTCY RULES 6003 AND 6004, (I) AUTHORIZING, BUT NOT DIRECTING, THE DEBTOR TO PAY PREPETITION EMPLOYEE OBLIGATIONS; (II) AUTHORIZING, BUT NOT DIRECTING, THE DEBTOR TO CONTINUE CERTAIN EMPLOYEE BENEFIT PROGRAMS IN THE ORDINARY COURSE; AND (III) AUTHORIZING, BUT NOT DIRECTING, APPLICABLE BANKS AND FINANCIAL INSTITUTIONS TO HONOR PREPETITION CHECKS FOR PAYMENT OF THE PREPETITION EMPLOYEE OBLIGATIONS

Upon consideration of the motion (the “Motion”)² of the above captioned debtor and debtor in possession (the “Debtor”) for the Final Order, under Bankruptcy Code sections 363, 507(a)(4), 507(a)(5), 541, 1107(a), and 1108 and Bankruptcy Rule 6003, (i) authorizing, but not directing, the Debtor, inter alia, to pay prepetition wages, salaries, commissions, incentive program payments, employee benefits, and reimbursable expenses; (ii) authorizing, but not directing, the Debtor to continue on a postpetition basis the maintenance of any or all employee benefit programs in the ordinary course in accordance with prepetition practices; (iii) authorizing, but not directing, the applicable banks and financial institutions to honor all related checks and electronic payment requests authorized pursuant to this Motion in accordance with the Final Order provided that sufficient funds are available in the applicable accounts to

¹ The last four digits of the Debtor’s taxpayer identification number are 2730. The Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

make payments; and (iv) granting related relief as further described herein; and upon the First Day Declaration; and this Court having found that it has jurisdiction over this matter under 28 U.S.C. § 157 and 1334; and this Court having found this is a core proceeding under 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper under 28 U.S.C. § 1408 and 1409; and the Debtor having provided due and sufficient notice of the Motion under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and after due deliberation thereon and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED as set forth herein.
2. Nothing in this Final Order is intended or shall be deemed to amend, modify or otherwise affect the Interim Order, as the Interim Order shall remain in full force and effect except that, as set forth herein and subject to any limitations contained in this Final Order.
3. The Debtor is authorized, but not directed, to pay and/or honor, in its sole discretion, the Unpaid Compensation as and when such obligations are due.
4. The Debtor is authorized, but not directed, in its sole discretion, to pay and Prepetition Employee Obligations as set forth in the Interim Order, including commissions and any Employee Wage Claim amounts that were not paid under the Interim Order, in accordance with prepetition procedures.
5. The Debtor is authorized, but not directed, in its sole discretion, to pay the Severance Obligations to former Employees in an amount of \$446,834, such that no former Employee shall receive payment in excess of the \$12,475 priority cap.

6. In addition to the Non-Insider Compensation Programs set forth in the Interim Order, the Debtor is authorized, but not directed, in its sole discretion, to pay and honor its obligations under the Bristol Incentive Plan, Branch Core Incentive Plan, Motive Power Service Manager Incentive Program, Motive Power Branch Manager Incentive Program, Industrial Energy Americas Sales Incentive Program, and Quarterly Sales Incentive Plans, and to continue such Non-Insider Compensation Programs on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

7. The Debtor is authorized, but not directed, to continue to fund the Pension Plan in the ordinary course of business and make the necessary payments to the Pension Plan to the extent any amounts remain unpaid on the Petition Date, including, without limitation, any administrative or actuarial fees in connection with the Pension Plan.

8. In addition to the authorization provided by the Interim Order to continue the Employee Insurance Benefits, the Debtor is authorized, but not directed, to continue the International SOS Insurance and Business Travel Insurance programs and to pay premium amounts and claim amounts relating to such programs on a postpetition basis in the ordinary course and in accordance with its prepetition practices.

9. All applicable banks and other financial institutions are authorized, but not directed, (a) to receive, process, honor, and pay all such checks and electronic payment requests authorized pursuant to this Final Order, provided that sufficient funds are available in the applicable accounts to make the payments, and (b) to rely on the Debtor's direction to pay amounts in accordance with this Final Order provided that sufficient funds are available in the applicable accounts to make the payments without any duty of further inquiry and without liability for following the Debtor's instructions.

10. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any Employee or other third party.

11. Nothing in the Motion or this Final Order shall be construed as impairing the Debtor's right to contest the validity, priority, or amount of any Prepetition Employee Obligations allegedly due or owing, and all of the Debtor's rights with respect thereto are hereby reserved.

12. Any party receiving payment from the Debtor is authorized and directed to rely upon the representations of the Debtor as to which payments are authorized by this Final Order.

13. Nothing in the Motion or the Final Order or the relief granted (including any actions taken or payments made by the Debtor pursuant to the relief) shall (a) be construed as a request for authority to assume any executory contract under Bankruptcy Code section 365; (b) waive, affect, or impair any of the Debtor's rights, claims, or defenses, including, but not limited to, those arising from Bankruptcy Code section 365, other applicable law, and any agreement; (c) grant third-party beneficiary status or bestow any additional rights on any third party; or (d) be otherwise enforceable by any third party.

14. To the extent there is any inconsistency between the terms of the interim or final order approving the Debtor's proposed postpetition financing, if and when entered, and the Final Order, the terms of the interim or final order approving the proposed postpetition financing, as applicable, shall govern.

15. Authorizations given to the Debtor in the Final Order empower but do not direct the Debtor to effectuate the payments specified herein.

16. The Debtor is authorized, but not directed, to take all actions necessary to effectuate the relief granted pursuant to the Final Order in accordance with the Motion.

17. No provision of the Final Order shall be construed as authority to make any payment which is subject to the provisions of Bankruptcy Code section 503(c).

18. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

19. Notwithstanding Bankruptcy Rule 6004(h), the Final Order shall be effective and enforceable immediately upon entry hereof.

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

Dated: Wilmington, Delaware
_____, 2013

UNITED STATES BANKRUPTCY JUDGE