

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 (KJC)
Debtor.¹ :
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Related Docket Nos. 17, 79, 408, 426

FINAL ORDER (I) AUTHORIZING DEBTOR (A) TO OBTAIN POST-PETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363 AND (II) GRANTING ADEQUATE PROTECTION TO PRE-PETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, 363 AND 364

Upon the motion (the “**Motion**”), dated June 10, 2013, of Exide Technologies (the “**Debtor**”), in the above-captioned case (the “**Case**”) pursuant to sections 105, 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), seeking a final order (this “**Final Order**”) among other things:

(1) authorizing the Debtor to (a) obtain post-petition financing, consisting of (i) a first-out superpriority, secured, asset-based revolving credit facility in the principal amount of \$225,000,000 (the “**DIP ABL Facility**”) and (ii) a second-out superpriority, multiple-draw secured term loan facility in an aggregate principal

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.

amount of \$275,000,000² (plus fees to be paid-in-kind and capitalized to principal) (the “**DIP Term Facility**”, and together with the DIP ABL Facility, the “**DIP Financing**”) from JPMorgan Chase Bank, N.A. (“**JPMCB**”), acting as Administrative Agent (in such capacity, the “**DIP Administrative Agent**”) and Collateral Agent (in such capacity, the “**DIP Collateral Agent**”, and, together with the DIP Administrative Agent, the “**DIP Agent**”), for itself and the other lenders party thereto (together with JPMCB and including the fronting and issuing banks for the letters of credit, the “**DIP Lenders**”) to be arranged by J.P. Morgan Securities LLC (in its capacity as lead arranger, the “**Lead Arranger**”) and UBS Securities LLC, as documentation agent, and (b) for the Debtor to guarantee any and all obligations under the DIP Financing of its wholly-owned subsidiary Exide Global Holding Netherlands C.V. (the “**Co-Borrower**”) or any of the other Loan Parties (as defined in the DIP Credit Agreement);

(2) authorizing the Debtor to execute and enter into the DIP Documents (as defined below) and to perform all such other and further acts as may be required in connection with the DIP Documents;

(3) authorizing the Debtor to immediately use proceeds of the DIP Term Facility to discharge the Pre-Petition ABL Liquidated Debt (as defined below), including interest through the date of discharge at the non-default contract rate upon the simultaneous release and termination of the Pre-Petition ABL Lenders’

² The DIP Term Facility may, at the option of the Debtor, and with no obligation or commitment on the part of the then existing DIP Lenders (as defined below) unless such DIP Lender has agreed to be an Additional Term Lender (as defined in the DIP Credit Agreement), be increased (through the addition of Additional Term Lender(s)) to up to \$325,000,000 in aggregate principal amount, subject to the terms and conditions thereof.

(as defined below) existing liens, claims and encumbrances in accordance with the Interim Order (as defined below);

(4) authorizing, until the indefeasible discharge of the Pre-Petition ABL Debt, the granting of adequate protection to the lenders (the “**Pre-Petition ABL Lenders**”) under or in connection with that certain Credit Agreement, dated as of January 25, 2011 (as heretofore amended, supplemented or otherwise modified, the “**Pre-Petition ABL Credit Agreement**”), among the Debtor and Co-Borrower, the lenders listed therein and Wells Fargo Capital Finance, LLC, as administrative agent and collateral agent for the Pre-Petition ABL Lenders (in such capacity, the “**Pre-Petition ABL Agent**”), and that certain US Security Agreement, dated as of January 25, 2011, between the Debtor, the other grantors from time to time party thereto and the Pre-Petition ABL Agent (as heretofore amended, supplemented or otherwise modified, the “**Security Agreement**” and, collectively with the Pre-Petition ABL Credit Agreement, any additional security agreements, and the mortgages and all other documentation and agreements executed in connection therewith, (including, for the avoidance of doubt, any Bank Product Agreements, including Hedge Agreements, each as defined in the Pre-Petition ABL Credit Agreement), the “**Existing ABL Agreements**”), whose liens and security interests are being primed by the DIP Financing;

(5) approving the form and substance of the Termination Agreement, by and between the Debtor, the Co-Borrower, certain of their non-debtor subsidiaries and the Pre-Petition ABL Agent in the form attached to the notice filed by the Debtor [ECF No. 117] as Exhibit A (the “**Payoff Letter**”);

(6) authorizing the granting of adequate protection to the holders (the **“Pre-Petition Noteholders”** and together with the Pre-Petition ABL Lenders, the Pre-Petition ABL Agent and the Pre-Petition Notes Trustee, the **“Pre-Petition Secured Parties”**) of the 8 5/8% Senior Secured Notes due 2018 (the **“Notes”**) issued under or in connection with that certain Indenture, among the Debtor, each of the guarantors party thereto and Wells Fargo Bank, National Association, as trustee (in such capacity under the Existing Indenture (as defined below), the **“Pre-Petition Notes Trustee”**), dated as of January 25, 2011 (the **“Existing Indenture”**), and together with the security agreements, mortgages and all other documentation executed in connection therewith, the **“Existing Indenture Agreements”** and together with the Existing ABL Agreements, the **“Existing Agreements”**), whose liens and security interests are being primed by the DIP Financing.

(7) authorizing the Debtor to use Cash Collateral (as defined below) and all other collateral in which any of the Pre-Petition Secured Parties have an interest, and the granting of adequate protection in the form of superpriority claims and replacement liens to any of the Pre-Petition Secured Parties with respect to, *inter alia*, such use of their Cash Collateral and all use and diminution in the value of such Cash Collateral and the Pre-Petition Collateral (as defined below);

(8) approving certain stipulations by the Debtor with respect to the Existing Agreements and the liens and security interests arising therefrom;

(9) granting superpriority claims under section 364(c)(1) of the Bankruptcy Code to the DIP Lenders payable from, and having recourse to, all pre-petition and post-petition property of the Debtor's estate and all proceeds thereof (including any Avoidance Proceeds (as defined below)), subject to the Carve Out (as defined below); and

(10) limiting the Debtor's right to surcharge against collateral pursuant to section 506(c) of the Bankruptcy Code.

Due and appropriate notice of the Motion, the relief requested therein and the interim hearing on the Motion (the "**Interim Hearing**") having been served by the Debtor on the (i) the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), (ii) the Office of the United States Attorney for the District of Delaware (the "**U.S. Attorney**"), (iii) the DIP Agent, (iv) counsel to the Pre-Petition ABL Agent, (v) counsel to the Pre-Petition Notes Trustee, (vi) the indenture trustee for each of the Debtor's secured and unsecured outstanding bond issuances, (vii) counsel to the unofficial committee of certain Pre-Petition Noteholders (the "**Unofficial Noteholder Committee**"), (viii) the Internal Revenue Service, (ix) the Securities and Exchange Commission, (x) the United States Environmental Protection Agency, (xi) the parties included on the Debtor's list of twenty (20) largest unsecured creditors, (xii) the parties included on the Debtor's list of five (5) largest secured creditors, (xiii) all lessors under any material real property leases, (xiv) all parties entitled to notice pursuant to Local Rule 9013-1(m), and (xv) any state or local environmental agencies in locations in which the Debtor has manufacturing or recycling facilities (the "**Notice Parties**");

The Interim Hearing having been held by this Court on June 11, 2013, and this court having entered the interim order (the "**Interim Order**") on June 11, 2013 that, among other

things, (a) authorized the Debtors to (i) enter into the DIP Credit Agreement (as defined below) with the DIP Lenders and to obtain up to \$395,000,000 in loans and letters of credit (comprised of up to \$225,000,000 of borrowings and letters of credit under the DIP ABL Facility and a term loan borrowing in the amount of \$170,000,000 under the DIP Term Loan Facility) from the DIP Lenders on a senior secured, superpriority claim basis (subject only to certain permitted liens and claims as set forth in the Interim Order); (ii) apply the initial borrowing under the DIP Term Facility and proceeds of the DIP ABL Facility (the date of the initial borrowings under the DIP Credit Agreement, the “**Closing Date**”) to repay in full the Pre-Petition ABL Liquidated Debt (as defined below); and (iii) use the proceeds of the DIP ABL Facility to provide back-to-back letters of credit and operating cash for the Debtors; (b) authorized the Debtors’ use of Cash Collateral (as defined below); (c) granted the adequate protection described in the Interim Order; and (d) scheduled the final hearing (the “**Final Hearing**”) to consider entry of this Final Order authorizing the balance of the borrowings under the DIP Documents and granting the other relief sought in the Motion on a final basis, as set forth in the Motion and the DIP Documents;

Due and appropriate notice of the final relief requested in the Motion, the Final Hearing, and the Interim Order having been served by the Debtor on the Notice Parties and on any other party that filed a request for notices with this Court and on counsel for the official committee of unsecured creditors appointed in the Case (the “**Creditors’ Committee**”);

The Court having considered all objections, if any, to the Motion; and

Upon the record made by the Debtor in the Motion, the Declaration of Phillip A. Damaska in Support of Chapter 11 Petition and First Day Pleadings, and the Declaration of Daniel Aronson in Support of Debtor’s Motion for Interim and Final Orders (I) Authorizing Debtor (A) to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1),

364(c)(2), 364(c)(3), 364(d)(1), and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364 and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c), and at the Interim Hearing and the Final Hearing, and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Disposition.* The Motion is granted on a final basis in accordance with the terms of this Final Order. Any objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled.
2. *Jurisdiction.* This Court has core jurisdiction over the Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. *Notice.* Notice of the Motion, the relief requested therein, the Interim Hearing, the Interim Order and the Final Hearing was served by the Debtor on (i) the U.S. Trustee, (ii) the U.S. Attorney, (iii) the DIP Agent, (iv) counsel to the Pre-Petition ABL Agent, (v) counsel to the Pre-Petition Notes Trustee, (vi) the indenture trustee for each of the Debtor's secured and unsecured outstanding bond issuances, (vii) counsel to the Unofficial Noteholder Committee, (viii) the Internal Revenue Service, (ix) the Securities and Exchange Commission, (x) the United States Environmental Protection Agency, (xi) the parties included on the Debtor's list of twenty (20) largest unsecured creditors, (xii) the parties included on the Debtor's list of five (5) largest secured creditors, (xiii) all lessors under any material real property leases (xiv) all parties entitled to notice pursuant to Local Rule 9013-1(m), and (xv) any state or local environmental agencies

in locations in which the Debtor has manufacturing or recycling facilities. Under the circumstances, the notice given by the Debtor of the Motion, the Interim Hearing, the Interim Order and the Final Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 4001(b) and (c) and the Local Rules. No further notice of the relief sought at the Final Hearing and the relief granted herein is necessary or required.

4. *Debtor's Stipulations.* Without prejudice to the rights of any other party (but subject to the limitations thereon contained in paragraphs 19 and 20 below), the Debtor admits, stipulates and agrees (provided that no such stipulations or agreements shall limit, impair or modify in any way the rights, protections or remedies of the DIP Agent or the DIP Lenders, including, with respect to any default or event of default under any of the DIP Documents), that:

(a) as of the filing of the Debtor's chapter 11 petition (the "**Petition Date**"), the Debtor was indebted and liable to the Pre-Petition ABL Lenders and the Pre-Petition Noteholders as follows:

(i) to Pre-Petition ABL Lenders, (1) in the aggregate principal amount of approximately \$160 million in respect of loans and advances made, letters of credit issued and honored, and other fees and bank charges under the Existing ABL Agreements, as more particularly described in the Payoff Letter (collectively, the "**Pre-Petition ABL Liquidated Debt**") and (2) in unliquidated and contingent amounts outstanding and continuing under the Existing ABL Agreements, comprised of the unreimbursed Lender Group Expenses (as defined in the Payoff Letter) as of the date of the Payoff Letter and the Surviving Obligations (as defined in the Payoff Letter) (collectively, the "**Pre-Petition ABL**

Unliquidated Debt”, and together with the Pre-Petition ABL Liquidated Debt, the (the “**Pre-Petition ABL Debt**”);

(ii) the Pre-Petition ABL Debt is secured by (1) first priority liens on and security interests in the ABL Priority Collateral (as defined in that certain Intercreditor Agreement, dated as of January 25, 2011, among the Pre-Petition Notes Trustee, the Pre-Petition ABL Agent and Exide Technologies (the “**ICA**”)) of the Debtor (the “**ABL Priority Collateral**”) and (2) second priority liens on and security interests in the Notes Priority Collateral (as defined in the ICA) of the Debtor (the “**Notes Priority Collateral**” and together with the ABL Priority Collateral, the “**Pre-Petition Collateral**”, and such liens and security interests, collectively, the “**ABL Security Interests**”), and the borrowings of the Co-Borrower under the Pre-Petition ABL Facility also are secured by first priority liens on and security interests in (x) certain assets of the Co-Borrower and certain subsidiaries of the Debtor organized under the laws of Australia, Canada, England, New Zealand, and Wales (such subsidiaries other than the Co-Borrower, the “**Pre-Petition ABL Foreign Guarantors**”) and (y) the equity interests of each of the Pre-Petition ABL Foreign Guarantors (such collateral described in clauses (x) and (y), the “**ABL Foreign Collateral**”, and such liens and security interests, the “**ABL Foreign Security Interests**”);

(iii) to the Pre-Petition Noteholders, in the aggregate principal amount of \$675 million (plus accrued and unpaid interest thereon) in respect of the Senior Secured Notes (the “**Pre-Petition Notes Debt**” and together with the Pre-Petition ABL Debt, the “**Pre-Petition Secured Obligations**”); and

(iv) the Pre-Petition Notes Debt is secured by second priority liens on and security interests in ABL Priority Collateral and first priority liens on and security interests in the Notes Priority Collateral (collectively, the “**Notes Security Interests**” and together with the ABL Security Interests, the “**Pre-Petition Security Interests**”);

(b) the stock of the Debtor’s wholly owned subsidiary Exide Global Holding Netherlands C.V. (“**Exide CV**”) is pledged (i) 65% to secure the Pre-Petition Notes Debt on a first priority basis and (ii) 100% to secure the Pre-Petition ABL Debt, with 65% of such stock pledged on a second priority basis and 35% pledged on a first priority basis;

(c) the Debtor owes the Pre-Petition Secured Obligations to the Pre-Petition ABL Lenders, Pre-Petition ABL Agent and Pre-Petition Noteholders without defense, counterclaim or offset of any kind, plus, in each case, interest, fees, expenses (including any attorneys’, accountants’, appraisers’ and financial advisors’ fees that are chargeable or reimbursable under the Existing Agreements), charges and other obligations incurred prior to the Petition Date in connection therewith as provided in the Existing Agreements;

(d) the Pre-Petition Secured Obligations are (i) legal, valid, binding and enforceable against the Debtor (and its applicable subsidiaries), each in accordance with its terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code), and (ii) not subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, under applicable non-bankruptcy law or otherwise (except for any lien subordination contemplated herein or in the ICA);

(e) the Pre-Petition Security Interests are (i) legal, valid, binding, enforceable, non-avoidable and duly perfected and are (ii) not subject to any attachment, contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, under applicable non-bankruptcy law or otherwise (except for any lien subordination contemplated herein or in the ICA) and, as of the Petition Date and before giving effect to the Interim Order or this Final Order, the Debtor is not aware of any other liens or security interests having priority over the Prepetition Security Interests, except, as the case may be, certain "Permitted Liens" (as defined in the applicable Existing Agreements);

(f) the aggregate value of the ABL Priority Collateral and the ABL Foreign Collateral substantially exceeds the aggregate amount of the Pre-Petition ABL Debt;

(g) a portion of the Debtor's initial borrowings under the DIP Financing has been used to discharge the Pre-Petition Liquidated ABL Debt owing to the Pre-Petition ABL Lenders and to cash collateralize or provide back-to-back letters of credit in respect of the letters of credit that were outstanding under the Pre-Petition ABL Credit Agreement and to cash collateralize Bank Product Obligations (as defined in the Pre-Petition ABL Credit Agreement), in each case in accordance with the terms and conditions set forth in the Interim Order;

(h) none of the Pre-Petition Secured Parties are control persons or insiders of the Debtor or the Loan Parties by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Existing Agreements;

(i) the liens granted to the DIP Administrative Agent on behalf of the DIP Lenders, once perfected under the DIP Documents and applicable local law, shall be valid, enforceable and non-avoidable liens against the Debtor and the other Loan Parties;

(j) the Debtor hereby absolutely and unconditionally releases and forever discharges and acquits the Prepetition Secured Parties and their respective present and former officers, directors, agents and employees and their respective successors and assigns (collectively, the “**Released Parties**”) from all obligations and liabilities to the Debtor (and its successors and assigns) and from any and all claims, demands, debts, accounts, contracts, liabilities, actions and causes of action, in each case arising out of or relating to the Existing Agreements and the transactions thereunder (the “**Released Claims**”) of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, that the Debtor at any time had, now has or may have, or that its successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Final Order, whether such Released Claims are matured or unmatured or known or unknown; and

(k) the Debtor and its subsidiaries forever and irrevocably release, discharge, and acquit the DIP Agent, the Lead Arranger and the current or former DIP Lenders, and each of their respective former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, members, consultants, accountants, attorneys, affiliates, and predecessors in interest of and from any and all claims, demands, liabilities,

responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including all legal and equitable theories of recovery arising under common law, statute or regulation or by contract, of every nature and description that exist on the date hereof relating to the DIP Documents, the DIP Obligations, the DIP Liens (each as defined below) or the transactions contemplated under such documents, including (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under title 11 of the United States Code, and (iii) any and all claims and causes of action regarding the validity, priority, perfection or avoidability of the liens or claims of the DIP Agent or DIP Lenders.

5. *Findings Regarding the DIP Financing.*

- (a) Good cause has been shown for the entry of this Final Order.
- (b) The Debtor needs to obtain the full amount of the DIP Financing and use Cash Collateral (as defined below) in order to permit, among other things, the orderly continuation of the operation of its business, to maintain business relationships with vendors, suppliers and customers, to make payroll, to satisfy other working capital and operational needs, to make capital expenditures, and, on the Closing Date, to discharge the Pre-Petition ABL Liquidated Debt, cash collateralize or provide back-to-back letters of credit in respect of the letters of credit currently outstanding under the Pre-Petition ABL Credit Agreement, and cash collateralize Bank Product Obligations (as defined in the Pre-Petition ABL Credit Agreement).

The access of the Debtor to sufficient working capital and liquidity made available through the use of Cash Collateral, incurrence of new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the going concern value of the Debtor and to a successful reorganization of the Debtor.

(c) The Debtor is unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and is unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor is also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without the Debtor (i) granting to the DIP Agent and the DIP Lenders, subject to the Carve Out as provided for herein, the DIP Liens and the Superpriority Claims (as defined below) under the terms and conditions set forth in this Final Order and in the DIP Documents and (ii) discharging the Pre-Petition ABL Liquidated Debt in full, as occurred following the entry of the Interim Order and on the Closing Date, such discharge being a requirement by the DIP Agent for the DIP Financing.

(d) The terms of the DIP Financing and the use of Cash Collateral appear to be fair and reasonable, reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties and constitute reasonably equivalent value and fair consideration.

(e) The DIP Financing has been negotiated in good faith and at arm's length among the Debtor, the DIP Agent and the DIP Lenders, and all of the Debtor's obligations and indebtedness arising under, in respect of or in connection with the DIP Financing and the DIP Documents and the rights granted in the Interim Order and this Final Order, including without limitation, (i) all loans made to, and all letters of credit issued for the account of, the Debtor pursuant to the superpriority debtor-in-possession credit agreement dated as of June 8, 2013 (as

amended and restated on July 12, 2013, and further amended on July 24, 2013, and as may be further amended or amended and restated from time to time in accordance with the terms of this Final Order, the “**DIP Credit Agreement**”), and (ii) any “**Obligations**” (as defined in the DIP Credit Agreement) of the Debtor, including credit extended in respect of overdrafts and related liabilities and other depository, treasury, and cash management services and other clearing services provided by the DIP Administrative Agent, any DIP Lender or any of their respective affiliates and any hedging obligations of the Debtor permitted under the DIP Credit Agreement in each case owing to the DIP Agent, any DIP Lender or any their respective banking affiliates, in accordance with the terms of the DIP Documents and any obligations, to the extent provided for in the DIP Documents, to indemnify the DIP Agent or the DIP Lenders (all of the foregoing in clauses (i) and (ii) collectively, the “**DIP Obligations**”), shall be deemed to have been extended by the DIP Agent and the DIP Lenders and their affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Lenders (and the successors and assigns of each) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(f) Based upon the record before the Court, the terms of the use of Cash Collateral and the adequate protection granted in this Final Order have been negotiated at arms’ length and in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and are in the best interests of the Debtor, its estate and creditors and are consistent with the Debtor’s fiduciary duties.

(g) The Debtor has requested entry of this Final Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and Local Rule 4001-2. Absent granting the relief set forth in this Final Order, the Debtor's estate will be immediately and irreparably harmed. Consummation of the DIP Financing and the use of Cash Collateral in accordance with this Final Order and the DIP Documents, as applicable, are in the best interests of the Debtor's estate.

6. *Authorization of the DIP Financing, the DIP Documents, the Payoff Letter and the Discharge of the Pre-Petition ABL Liquidated Debt.*

(a) The Debtor was by the Interim Order and is hereby authorized to enter into and perform all obligations under the DIP Documents. The Debtor is hereby authorized to borrow money and obtain letters of credit pursuant to the DIP Credit Agreement, and guarantee all DIP Obligations of the Co-Borrower and the other Loan Parties, consisting of borrowings of up to an aggregate principal or face amount of \$225,000,000 under the DIP ABL Facility (subject to any limitations on borrowings thereunder) and \$275,000,000 under the DIP Term Facility in accordance with the terms of this Final Order and the DIP Documents (in each case plus interest, fees, paid-in-kind fees and other expenses and amounts provided for in the DIP Documents), which borrowings shall be used for all purposes permitted under the DIP Documents, including, without limitation, to provide working capital for the Debtor and its subsidiaries and to pay interest, fees and expenses in accordance with this Final Order and the DIP Documents and, on the Closing Date, to discharge the Pre-Petition ABL Liquidated Debt as provided herein, cash collateralize or provide back-to-back letters of credit in respect of the Letters of Credit and cash collateralize the Bank Product Obligations (each as defined in the Pre-Petition ABL Credit Agreement). The discharge of the Pre-Petition ABL Debt pursuant to the Interim Order is hereby ratified and confirmed (subject to the provisions of paragraph 20 hereof).

(b) In furtherance of the foregoing and without further approval of this Court, the Debtor was by the Interim Order and is hereby authorized and directed to perform, and is authorized and directed to cause the Loan Parties to perform, all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all fees, that may be reasonably required or necessary for the Debtor's performance of their obligations under the DIP Financing, including, without limitation:

(i) the execution, delivery and performance of the DIP Credit Agreement and any exhibits attached thereto, including, without limitation, all security agreements, all related or ancillary documents and agreements, and any mortgages contemplated thereby (collectively, and together with the letter agreements referred to in clause (iii) below, the **"DIP Documents"**),

(ii) the execution, delivery and performance of one or more amendments to or waivers of the requirements of the DIP Documents, including the DIP Credit Agreement for, among other things, the purpose of adding additional financial institutions as DIP Lenders and reallocating the commitments for the DIP Financing among the DIP Lenders, in each case in such form as the Debtor, the DIP Administrative Agent and the DIP Lenders may agree (it being understood that no further approval of the Court shall be required for amendments to the DIP Credit Agreement (and any fees paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the commitments, the rate of interest or the letter of credit fees payable thereunder). Notwithstanding any other provision of this Final Order, without further approval of this Court, amendments to the DIP Documents may be made at any time on or prior to the date that is 90 days after the Closing Date (as defined in the DIP

Credit Agreement) as contemplated by the separate letter agreements entered into in connection with the DIP Financing and filed under seal with the Court (permitting modifications to the DIP Credit Agreement necessary or advisable to ensure successful syndication or if successful syndication cannot occur),

(iii) the non-refundable payment to the DIP Agent, the Lead Arranger and/or the DIP Lenders, as the case may be, of the fees and any amounts due (or that may become due) in respect of the indemnification obligations referred to in the DIP Credit Agreement (and in the separate letter agreements between them in connection with the DIP Financing) and reasonable costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained as provided for in the DIP Documents, without the need to file retention motions or fee applications, or to provide notice to any party,

(iv) the performance of all other acts required under or in connection with the DIP Documents, and

(v) the execution of the Payoff Letter and performance of the transactions and undertakings set forth therein, which were by the Interim Order and hereby are approved in all respects, provided that \$400,000 for payment of fees and expenses asserted by Deutsche Bank AG shall be reserved and held in escrow by the Debtor and paid upon agreement of the Debtor and Deutsche Bank AG or order of the Court, and such reserved amount shall not be an obligation of the Pre-Petition ABL Agent.

(c) Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute valid, binding and unavoidable obligations of the Debtor and the other Loan Parties, enforceable against the Debtor and the other Loan Parties in accordance with the terms

of the DIP Documents and this Final Order. No obligation, payment, transfer or grant of security under the DIP Documents or this Final Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under any Avoidance Action (as defined below) or under any applicable Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or other similar state statute or common law), or subject to any defense, reduction, setoff, recoupment, recharacterization, subordination, disallowance, impairment, cross-claim or counterclaim.

(d) Each of the Debtor, the DIP Agent, the Lead Arranger, the DIP Lenders and the respective legal advisors and financial advisors to each of the foregoing are authorized to take such actions as necessary or appropriate to syndicate the term loans to be extended under the DIP Term Facility made on the Final Term Funding Date (as defined in the DIP Credit Agreement) and effectuate the syndication procedures included in that certain Notice of Filing of Syndication Form and Instructions for Holders of Prepetition Senior Secured Notes to Become Lenders of Delayed Draw Term Loans of Exide Technologies [ECF No. 196] as amended by that certain Notice of Revised Dates Applicable to Syndication Process for Delayed Draw Term Loans of Exide Technologies [ECF No. 257] (Exhibit A attached to ECF No. 196, as amended by ECF No. 257, the “**Syndication Form**”). The Pre-Petition Noteholders who execute a Syndication Form are hereby bound by the terms, covenants and conditions set forth in the Syndication Form and the DIP Documents. For the avoidance of doubt, neither the DIP Agent nor the Lead Arranger shall have any role in the syndication described in the Syndication Form and shall have no liability or other obligation to any person with respect thereto.

7. *Superpriority Claims.*

(a) Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed claims against the Debtor (without the need to file any proof of claim) with priority over any and all administrative expenses, diminution claims (including all Adequate Protection Obligations (as defined below)) and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (collectively the “**Superpriority Claims**”), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtor and all proceeds thereof, subject only to the Carve Out to the extent specifically provided for herein. Any payments, distributions or other proceeds received on account of such Superpriority Claims shall be promptly delivered to the DIP Agent to be applied or further distributed by the DIP Agent on account of the DIP Obligations in such order as is specified in the DIP Documents. The Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(b) For purposes hereof, the “**Carve Out**” means (a) all fees, in an amount agreed to by the U.S. Trustee or as determined by the Court, required to be paid to the Clerk of the Bankruptcy Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code and section 3717 of title 31 of the United States Code, (b) all reasonable fees and

expenses incurred by a trustee under section 726(b) of the Bankruptcy Code not to exceed \$50,000 and (c) at any time on and after the first business day after the occurrence and during the continuance of an Event of Default (as defined in the DIP Credit Agreement), and delivery (which may be by email) of notice (the “**Carve Out Notice**”) thereof to (1) the U.S. Trustee, (2) counsel to the Debtor, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036 (attention: Kenneth S. Ziman), and (3) counsel for the Creditors’ Committee, any and all allowed and unpaid claims of any professional of the Debtor or the Creditors’ Committee whose retention is ultimately approved by the Court during the Case pursuant to sections 327 and 1103 of the Bankruptcy Code (collectively the “**Estate Professionals**”) for unpaid fees and expenses (and the reimbursement of out-of-pocket expenses allowed by the Court incurred by any members of the Creditors’ Committee (but excluding fees and expenses of third party professionals employed by such members of the Creditors’ Committee)) incurred, subject to the terms of this Final Order, any interim compensation order or other compensation order entered by the Court and the order approving the applicable Estate Professional’s retention (i) prior to the business day following delivery of the Carve Out Notice *plus* (ii) any such unpaid fees and expenses, in an aggregate amount not to exceed \$6,000,000, incurred at any time on or after the business day following delivery of the Carve Out Notice; *provided* that (x) nothing herein shall be construed to impair the ability of any party to object to any of the fees, expenses, reimbursements or compensation of Estate Professionals or expenses of any Creditors’ Committee member, (y) cash and other amounts collateralizing Letters of Credit or Bank Product Obligations (each as defined in the DIP Credit Agreement) shall not be subject to the Carve Out and (z) to the extent that the cap in clause (c)(ii) of this paragraph is reduced as a result of payment of fees and expenses after an Event of Default, and after the

delivery of a Carve Out Notice, and such Event of Default is subsequently cured or waived, the dollar amount available under clause (c)(ii) of this paragraph shall be restored to \$6,000,000.

(c) The Carve Out shall not include, apply to, or be available for any fees or expenses incurred by any party, including the Debtor, the Creditors' Committee or any other committee or any professional, in connection with (1) the investigation, consideration, initiation or prosecution of any claims (including for the avoidance of liens or security interests and any action for preferences, fraudulent transfers or conveyances, or other avoidance power claims) against the DIP Agent or any DIP Lender, in connection with or related to the DIP Financing or the DIP Documents or preventing, hindering or delaying the assertion or enforcement of any lien, claim, right or security interest or realization upon any Collateral (as defined below) in a manner permitted by this Final Order by the DIP Administrative Agent or any DIP Lender, (2) a request to use cash collateral (as such term is defined in section 363 of the Bankruptcy Code) without the prior consent of the DIP Administrative Agent, (3) a request, without the prior consent of the DIP Administrative Agent, for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or (d) of the Bankruptcy Code that does not indefeasibly discharge in full in cash the DIP Obligations (including cash collateralizing any letters of credit) immediately upon the closing of such financing or other financial accommodation, (4) any act that has the effect of materially and adversely modifying or compromising the rights and remedies of the DIP Agent or any DIP Lender, or that results in the occurrence of an event of default under any of the DIP Documents unless otherwise agreed to by the DIP Administrative Agent, and (5) the investigation, consideration initiation or prosecution of any claims (including for the avoidance of liens or security interests and any action for preferences, fraudulent transfers or conveyances, or other avoidance power claims) against the

Pre-Petition Secured Parties in their capacities as such (except solely to the extent provided for in Paragraph 19 or 20 hereof).

8. *DIP Liens.*

As security for the DIP Obligations, effective and perfected upon the entry of the Interim Order and without the necessity of the execution or recordation of filings by the Debtor of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the DIP Agent of, or over, any Collateral (as defined below), the following security interests and liens were by the Interim Order and hereby are granted to the DIP Administrative Agent for its own benefit and the benefit of the DIP Lenders and any of their affiliates that are Bank Product Providers (as defined in the DIP Credit Agreement) in respect of Bank Product Obligations (as defined in the DIP Credit Agreement), as applicable (all property identified in clauses (a), (b), (c) and (e) below being collectively referred to as the “**Collateral**”), subject to the payment of the Carve Out as provided for herein (all such liens and security interests granted to the DIP Administrative Agent, for its benefit and for the benefit of the DIP Lenders and their affiliates that are Hedge Providers or Bank Product Providers, each as defined in the DIP Credit Agreement, (to the extent obligations owed to Hedge Providers or Bank Product Providers are permitted to be secured pursuant to the terms of, and subject to the priority set forth in, the DIP Documents), pursuant to this Final Order and the DIP Documents, the “**DIP Liens**”):

(a) First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all pre- and post-petition property of the Debtor, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date or the date

acquired (if acquired after the Petition Date) or as a result of the discharge of the Pre-Petition ABL Liquidated Debt is not subject to valid, perfected and non-avoidable liens (collectively, “**Unencumbered Property**”), including without limitation, all cash and cash collateral of the Debtor (whether maintained with the DIP Agent or otherwise) and any investment of such cash and cash collateral, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date (including, without limitation, post-petition intercompany claims against the Debtor and its non-Debtor affiliates), contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, capital stock of subsidiaries, and the proceeds, product, offspring or profits of all the foregoing (but excluding the Expense Reserve (as defined in the Payoff Letter)). Unencumbered Property shall exclude the Debtor’s claims and causes of action under sections 502(d), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, “**Avoidance Actions**”), but shall include any proceeds or property recovered, unencumbered or otherwise the subject of successful Avoidance Actions, whether by judgment, settlement or otherwise (“**Avoidance Proceeds**”).

(b) **Priming Liens on Pre-Petition Collateral.** Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all pre- and post-petition property of the Debtor that constitutes Pre-Petition Collateral, including the stock of Exide CV. Such security interests and liens shall be senior in all respects to the interests in such property of the Pre-Petition Secured Parties arising from current and future liens of the Pre-Petition Secured Parties (including, without limitation, adequate protection liens granted hereunder), but shall not be

senior to (i) any valid, perfected and unavoidable interests of other parties arising out of liens, if any, on such property existing immediately prior to the Petition Date that were senior in priority to the liens of the Pre-Petition Secured Parties, or (ii) any valid, perfected and unavoidable interests in such property arising out of liens, if any, that were senior in priority to the liens of the Pre-Petition Secured Parties, as permitted by section 546(b) of the Bankruptcy Code. For the avoidance of doubt, the DIP Administrative Agent, for its own benefit and the benefit of the DIP Lenders and any of their affiliates that are Bank Product Providers (as defined in the DIP Credit Agreement), is hereby granted a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon 100% of the stock of Exide CV, which security interest and lien shall be senior in all respects to the interests in such property of the Pre-Petition Secured Parties arising from current and future liens of the Pre-Petition Secured Parties (including any Adequate Protection Liens).

(c) Liens Junior to Certain Other Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected security interest in and lien upon all pre- and post-petition property of the Debtor (other than the property described in clauses (a) and (b) of this paragraph 8, as to which the liens and security interests in favor of the DIP Administrative Agent will be as described in such clauses), whether now existing or hereafter acquired, that is subject to valid, perfected and unavoidable liens in existence immediately prior to the Petition Date, or to any valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code (in each case, other than the Adequate Protection Liens (as defined below) granted hereunder), which security interests and liens in favor of the DIP Administrative Agent are junior to such valid, perfected and unavoidable liens.

(d) Liens Senior to Certain Other Liens. The DIP Liens and the Adequate Protection Liens (as defined below) shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or (ii) any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the Debtor, in each case other than to the extent required by applicable law.

(e) Government Grant Property. Notwithstanding anything to the contrary herein, the Collateral shall not include Government Grant Property (as defined in the DIP Credit Agreement).

9. *Protection of DIP Lenders' Rights.*

(a) So long as there are any borrowings or letters of credit or other amounts outstanding (other than contingent indemnity obligations as to which no claim has been asserted when all other amounts have been indefeasibly paid in full and no letters of credit are outstanding), or the DIP Lenders have any Commitments (as defined in the DIP Credit Agreement) under the DIP Credit Agreement, the Pre-Petition Secured Parties shall (i) have no right to and shall take no action to foreclose upon or recover in connection with the liens granted thereto pursuant to the Existing Agreements, the Interim Order or this Final Order, or otherwise seek to exercise or exercise any enforcement rights or remedies against any Collateral, including in connection with the Contingent Pre-Petition ABL Debt (as defined below) or the Adequate Protection Liens, (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, Collateral, to the extent such transfer, disposition, sale or release is authorized

under the DIP Documents, the Interim Order and this Final Order, (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the Collateral unless, solely as to this clause (iii), the DIP Lenders file financing statements or other documents to perfect the liens granted pursuant to the Interim Order or this Final Order, or as may be required by applicable state law to continue the perfection of valid and unavoidable liens or security interests as of the Petition Date and (iv) deliver or cause to be delivered, at the Debtor's cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent, the DIP Lenders or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the Collateral subject to any sale or disposition.

(b) The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the DIP Agent and the DIP Lenders to enforce all of their rights under the DIP Documents (including any cash dominion as provided for in the DIP Documents) and to exercise all rights and remedies under the DIP Documents; *provided* that such rights and remedies that are exercisable only upon an Event of Default (other than the giving of any notice, including the Carve Out Notice) shall require the giving of seven days' prior written notice to the Debtor (which period shall run concurrently with any notice period provided under the DIP Documents) (the "**Default Notice Period**"). Upon receipt, the Debtor shall promptly distribute such notice to the United States Trustee and counsel to (i) the Pre-Petition ABL Agent, (ii) the Pre-Petition Noteholders, (iii) the Unofficial Noteholder Committee, (iv) the Pre-Petition Notes Trustee and (v) the Creditors' Committee. In any hearing regarding any exercise of rights or remedies under the DIP Documents (which hearing must take

place within the Default Notice Period), the only issue that may be raised by the Debtor or the Pre-Petition Secured Parties shall be whether, in fact, an Event of Default has occurred and is continuing, and the Debtor and the Pre-Petition Secured Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent that such relief would in any way impair or restrict the rights and remedies of the DIP Agent or the DIP Lenders set forth in the Interim Order, this Final Order or the DIP Documents. In no event shall the DIP Agent, the DIP Lenders or any of the Pre-Petition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral. Further, in no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to the secured claims of the Pre-Petition Secured Parties.

(c) No restrictions on the exercise of remedies provided for in the Interim Order or this Final Order shall apply to any exercise of remedies by the DIP Agent or the DIP Lenders against the Co-Borrower or any other Loan Party (other than the Debtor), and for the avoidance of doubt nothing in the Interim Order or this Final Order shall be interpreted to extend the automatic stay or any other protections to the Co-Borrower or any other Loan Party (other than the Debtor).

(d) No rights, protections or remedies of the DIP Agent or the DIP Lenders granted by the provisions of the Interim Order, this Final Order or the DIP Documents shall be limited, modified or impaired in any way by (i) any actual or purported withdrawal of the consent of any party to the Debtor’s authority to use Cash Collateral, (ii) any actual or purported termination of the Debtor’s authority to use Cash Collateral or (iii) the terms of the Interim Order, this Final Order or any other order or stipulation related to the Debtor’s use of Cash Collateral or the provision of adequate protection to any party.

(e) Neither the DIP Agent nor the DIP Lenders (each in their capacities as such) shall be subject to any obligations under the ICA. Neither the DIP Credit Agreement nor the DIP Obligations shall be subject to the terms of the ICA.

10. *Limitation on Charging Expenses Against Collateral.* Except to the extent of the Carve Out and solely to the extent permitted under applicable law, no expenses of administration of the Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the express prior written consent of the DIP Administrative Agent, the Pre-Petition Notes Trustee or the Pre-Petition ABL Agent, as the case may be, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Lenders, or any of the Pre-Petition Secured Parties. Notwithstanding anything to the contrary in this Order or the DIP Credit Agreement, nothing in this Order or the DIP Credit Agreement shall preclude the Texas Commission on Environmental Quality (“TCEQ”) or the City of Frisco, Texas (“Frisco”) from seeking leave to assert a claim under Section 506(c) of the Bankruptcy Code to recover solely from the value of those certain parcels of land referred to in the Master Settlement Agreement between the Debtor and Frisco, among others, dated June 6, 2012 (as may be amended, modified, or supplemented, the “Frisco Settlement Agreement”) as the “Bowtie Parcel” and the “J Parcel,” as applicable (and not any other Collateral), any reasonable, necessary costs and expenses expended by TCEQ or Frisco, as the case may be, to satisfy the Debtor’s obligations pursuant to the Frisco Settlement Agreement and/or applicable law with respect to the remediation of environmental contamination at the Bowtie Parcel or the J Parcel, as applicable, that have not been complied with by the Debtor under the terms of the

Frisco Settlement Agreement and/or, with respect to the TCEQ, applicable law and after expenditure of any funds available and required to be used by the Debtor for closure and remediation costs under the Frisco Settlement Agreement; provided, however, that the rights of all parties with respect to whether any such claim may be asserted by TCEQ or Frisco and the validity of any such claim are fully reserved; provided further, however, that any such claim asserted by TCEQ or Frisco shall be limited to remediation costs and expenses, or with respect to the TCEQ, such other costs required under applicable law, incurred to meet the Debtor's obligations under (i) with respect to the Bowtie Parcel, the Texas Risk Reduction Program industrial cleanup standards; (ii) with respect to the J Parcel, the standard set forth in section 5.1.2 of the Frisco Settlement Agreement; or (iii) with respect to the TCEQ, such other standard required under applicable law. Except as expressly contemplated by this Final Order, the Frisco Settlement Agreement shall remain in full force and effect.

11. *The Cash Collateral.* Due to the inclusion of the Debtor's cash in the Pre-Petition Collateral, the Debtor's cash balances are cash collateral of the Pre-Petition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code. All such cash (including, without limitation, all proceeds of Pre-Petition Collateral) is referred to herein as "**Cash Collateral.**"

12. *Use of Cash Collateral.* The Debtor is hereby authorized, subject to the terms and conditions of the DIP Documents and this Final Order, to use all Cash Collateral of the Pre-Petition Secured Parties, and, upon the request of the Debtor, the Pre-Petition Secured Parties are directed promptly to turn over to the Debtor all Cash Collateral received or held by them. The Debtor's right to use Cash Collateral shall terminate automatically on the earlier of (i) the Maturity Date (as defined in the DIP Credit Agreement) or the earlier acceleration of the Loans (as defined in the DIP Credit Agreement) outstanding under the DIP Credit Agreement and (ii)

the occurrence of an Event of Default under the DIP Credit Agreement and the DIP Agent giving of five days' prior written notice (which shall run concurrently with any notice provided under the DIP Documents) to the Debtor.

13. *Discharge of the Pre-Petition ABL Liquidated Debt.* Immediately following the entry of the Interim Order and as part of the initial borrowing under the DIP Financing, the Debtor used a portion of the proceeds from the DIP Financing in accordance with the DIP Documents and the Interim Order to discharge in full the Pre-Petition ABL Liquidated Debt then outstanding, upon which discharge, the ABL Security Interests and the ABL Foreign Security Interests were automatically released and terminated. The Pre-Petition ABL Agent has delivered or shall cause to be delivered, at the Debtor's cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent, the DIP Lenders or other documents, in each case as reasonably requested by the Debtor or the DIP Agent in order to evidence the release and termination of the ABL Security Interests and the ABL Foreign Security Interests.

14. *Adequate Protection of Pre-Petition ABL Lenders.* Until the indefeasible discharge of the Pre-Petition ABL Debt (which shall be deemed to have occurred, *inter alia*, upon the expiration of the Challenge Period (as defined below) if no adversary proceeding or contested matter is timely and properly asserted, in accordance with paragraph 19 hereof, with respect to the Pre-Petition ABL Debt or against the Pre-Petition ABL Agent or the Pre-Petition ABL Lenders (in their capacities as such)), the Pre-Petition ABL Lenders are entitled, pursuant to sections 361, 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of their interest in the Pre-Petition Collateral, including the Cash Collateral, for and equal in amount to any aggregate diminution in the value of the Pre-Petition ABL Lenders' interests in the Pre-Petition Collateral, including, without limitation, any such diminution resulting from the sale,

lease or use by the Debtor (or other decline in value) of Cash Collateral and any other Pre-Petition Collateral, the priming of the Pre-Petition ABL Agent's security interests and liens in the Pre-Petition Collateral by the DIP Agent and the DIP Lenders pursuant to the DIP Documents and this Final Order, the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code, the Pre-Petition ABL Unliquidated Debt and the Contingent Pre-Petition ABL Debt (as defined below). As adequate protection, the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders are hereby granted the following (collectively, the "**ABL Adequate Protection Obligations**"):

(a) ABL Adequate Protection Liens. The Pre-Petition ABL Agent (for itself and for the benefit of the Pre-Petition ABL Lenders) was by the Interim Order and hereby is granted (effective and perfected upon the entry of the Interim Order and without the necessity of the execution by the Debtor of mortgages, security agreements, pledge agreements, financing statements or other agreements), in the amount of such diminution of any Contingent Pre-Petition ABL Debt (as defined below) and any Pre-Petition ABL Unliquidated Debt, a replacement security interest in and lien upon all of the Collateral (including the stock of Exide CV), subject and subordinate only to (i) the security interests and liens granted to the DIP Administrative Agent for the benefit of the DIP Lenders in the Interim Order, this Final Order and pursuant to the DIP Documents and any liens on the Collateral to which such liens so granted to the DIP Administrative Agent are junior, (ii) the Carve Out, and (iii) the Notes Adequate Protection Liens (as defined below) (such lien securing the ABL Adequate Protection Obligations, the "**ABL Adequate Protection Liens**"). The ABL Adequate Protection Liens shall secure (i) any amount by which the Pre-Petition ABL Unliquidated Debt exceeds the value

of the Expense Reserve (as defined in the Payoff Letter) and (ii) the amount of any Contingent Pre-Petition ABL Debt (as defined below).

(b) ABL Section 507(b) Claim. The Pre-Petition ABL Agent, on behalf of itself and the Pre-Petition ABL Lenders, was granted by the Interim Order and hereby is granted, subject to the Carve Out, a superpriority claim as provided for in section 507(b) of the Bankruptcy Code, immediately junior to the Superpriority Claims held by the DIP Administrative Agent and the DIP Lenders and *pari passu* with the superpriority claim held by the Pre-Petition Notes Trustee and the Pre-Petition Noteholders; *provided, however*, that, unless otherwise expressly agreed to in writing by the DIP Agent, the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders shall not receive or retain any payments, property or other amounts in respect of the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder or under the Existing ABL Agreements unless and until the DIP Obligations have indefeasibly been paid in cash in full in accordance with the DIP Documents (the “**ABL Adequate Protection Claim**”) other than, so long as no Event of Default under the DIP Credit Agreement has occurred and is continuing, payment of any Lender Group Expenses (as defined in the Payoff Letter) in excess of the Expense Reserve (as defined in the Payoff Letter) in accordance with terms of the Payoff Letter.

(c) ABL Interest, Fees and Expenses. The Pre-Petition ABL Agent shall receive from the Debtor (i) immediate cash payment of all accrued and unpaid interest (if any) on the Pre-Petition ABL Liquidated Debt and letter of credit fees at the non-default rates provided for in the Existing ABL Agreements, and all other accrued and unpaid fees and disbursements (including, but not limited to, fees owed to the Pre-Petition ABL Agent) owing to the Pre-Petition ABL Agent under the Existing ABL Agreements and incurred prior to the Petition Date

and (ii) current cash payments of all fees and expenses payable to the Pre-Petition ABL Agent under the Existing ABL Agreements incurred prior to the Petition Date, including, but not limited to, the reasonable fees and disbursements of counsel promptly upon receipt of invoices therefor.

(d) Contingent Pre-Petition ABL Debt. “**Contingent Pre-Petition ABL Debt**” shall mean any amount of the Pre-Petition ABL Debt subsequently reinstated after the discharge thereof because such payment (or any portion thereof) is required to be returned or repaid to the Debtor or DIP Lenders; *provided* that the liens securing the Pre-Petition ABL Debt have not been avoided. In the event that the Pre-Petition ABL Agent or any Pre-Petition ABL Lenders (each in their capacities as such) are ordered by the Court to disgorge, refund or in any manner repay to the Debtor or its estate any amounts (“**Disgorged Amounts**”) leading to Contingent Pre-Petition ABL Debt, the Disgorged Amounts, unless otherwise ordered by the Court, shall be placed in a segregated interest bearing account, pending a further final, non-appealable order of a court of competent jurisdiction regarding the distribution of such Disgorged Amounts (either returning the Disgorged Amounts to the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders, distributing such amounts to the Debtor or otherwise).

15. *Adequate Protection of Pre-Petition Noteholders*. The Pre-Petition Noteholders are entitled, pursuant to sections 361, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interest in the Pre-Petition Collateral, including any Cash Collateral, for and equal in amount to any aggregate diminution in the value of the Pre-Petition Noteholders’ interests in the Pre-Petition Collateral and only to the extent of any diminution in value (the “**Diminution in Value**”), including, without limitation, any such diminution resulting from the sale, lease or use by the Debtor (or other decline in value) of Cash Collateral and any

other Pre-Petition Collateral, the priming of the Pre-Petition Noteholders' security interests and liens in the Pre-Petition Collateral by the DIP Administrative Agent and the DIP Lenders pursuant to the DIP Documents and this Final Order and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Pre-Petition Notes Trustee and the Pre-Petition Noteholders were by the Interim Order and are hereby granted the following (collectively, the "**Noteholder Adequate Protection Obligations**" and, together with the ABL Adequate Protection Obligations, the "**Adequate Protection Obligations**").

(a) Noteholder Adequate Protection Liens. The Pre-Petition Notes Trustee (for itself and for the benefit of the Pre-Petition Noteholders) was by the Interim Order and hereby is granted (effective and perfected upon the date of entry of the Interim Order and without the necessity of the execution by the Debtor of mortgages, security agreements, pledge agreements, financing statements or other agreements), in the amount of such Diminution in Value, (1) a replacement security interest in and lien upon all of the Collateral (including the stock of Exide CV), subject and subordinate only to (i) the security interests and liens granted to the DIP Administrative Agent for the benefit of the DIP Lenders in the Interim order, this Final Order and pursuant to the DIP Documents, and any liens on the Collateral to which such liens so granted to the DIP Administrative Agent are junior; and (ii) the Carve Out; and (2) silent junior liens on certain foreign collateral of the Debtor's subsidiaries incorporated under the laws of the United Kingdom (the "**UK Collateral**"), as and to the extent such liens shall be provided for and perfected pursuant to the terms of the applicable DIP Documents or such other documents that are acceptable to the DIP Agent in its sole discretion (the "**UK Adequate Protection Liens**"); *provided that* (i) the UK Adequate Protection Liens shall be subject and subordinate to the liens granted to the DIP Administrative Agent and the DIP Lenders on the UK Collateral and any liens

on the UK Collateral to which such liens so granted to the DIP Administrative Agent and DIP Lenders are junior, (ii) the UK Adequate Protection Liens shall automatically be terminated and released upon the effective date of a confirmed plan of reorganization in the Case, (iii) neither the Pre-Petition Notes Trustee nor any Pre-Petition Noteholder shall (a) have rights with respect to the UK Collateral other than to hold the UK Adequate Protection Liens for the benefit of the Pre-Petition Noteholders or (b) be entitled to take any action (including any enforcement action) with respect to any lien, claim or rights and remedies in respect of the UK Adequate Protection Liens or the UK Collateral, in each of (a) and (b), unless and until the DIP Obligations are indefeasibly paid in full in a manner consistent with this Final Order and the DIP Documents and (iv) in the event that the Pre-Petition Notes Trustee, any Pre-Petition Noteholder or any other person or entity receives any payment on account of the UK Adequate Protection Liens, receives any proceeds of Collateral in respect of the UK Adequate Protection Liens or receives any other payment with respect thereto from any other source prior to indefeasible satisfaction of all DIP Obligations under the DIP Documents, and termination of the Commitments in accordance with the DIP Documents, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds in trust for the benefit of the DIP Agent and DIP Lenders and shall immediately turn over such proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Final Order; *provided further* that the Pre-Petition Notes Trustee shall (x) deliver or cause to be delivered, at the Debtor's cost and expense, any termination statements, releases, assignments and/or other documents, in each case as reasonably requested by the Debtor or the DIP Agent in order to effectuate and/or evidence the release and termination of the UK Adequate Protection Liens and (y) enter into an intercreditor agreement acceptable to the DIP Agent, in its sole discretion, evidencing the junior

and silent nature of the UK Adequate Protection Liens (such liens securing the Noteholder Adequate Protection Obligations, collectively, the “**Notes Adequate Protection Liens**” and together with the ABL Adequate Protection Liens, the “**Adequate Protection Liens**”).

(b) Noteholder Section 507(b) Claim. The Pre-Petition Notes Trustee, on behalf of itself and the Pre-Petition Noteholders, was by the Interim Order and hereby is granted, subject to the Carve Out, a superpriority claim as provided for in section 507(b) of the Bankruptcy Code, immediately junior to the Superpriority Claims held by the DIP Administrative Agent and the DIP Lenders and *pari passu* with the superpriority claim held by the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders; *provided, however*, that, unless otherwise expressly agreed to in writing by the DIP Agent, the Pre-Petition Notes Trustee and the Pre-Petition Noteholders shall not receive or retain any payments, property or other amounts in respect of the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder or under the Existing Indenture Agreements unless and until the DIP Obligations have indefeasibly been paid in cash in full in accordance with the DIP Documents (the “**Noteholder Adequate Protection Claim**” and together with the ABL Adequate Protection Claim, the “**Adequate Protection Claims**”).

(c) Pre-Petition Notes Trustee Fees and Expenses. Current cash payments payable under the Existing Indenture shall be made to the Pre-Petition Notes Trustee (for the benefit of itself and the Pre-Petition Noteholders thereunder) (i) for all actual and documented reasonable professional fees and expenses payable to the Pre-Petition Notes Trustee, one primary counsel and one local counsel retained by the Pre-Petition Notes Trustee under the Existing Indenture and (ii) for the period commencing November 1, 2013, in the Debtor’s reasonable judgment, for all actual and documented reasonable professional fees and expenses payable to

any other professional retained by the Pre-Petition Notes Trustee under the Existing Indenture, including a financial advisor, in an amount not to exceed \$25,000 per month on a rolling basis, provided that the Pre-Petition Notes Trustee shall submit invoices for such payments containing detailed time entries to the Debtor and the Creditors' Committee. Nothing herein shall be deemed to limit the right of the Pre-Petition Notes Trustee to retain professionals or other agents under the Pre-Petition Notes Indenture nor to seek payment of any unpaid fees and expenses from the Debtor in a chapter 11 plan or pursuant to any charging lien it may have under the Pre-Petition Notes Indenture.

(d) Unofficial Noteholder Committee Fees and Expenses. The Unofficial Noteholder Committee is represented by (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, as counsel ("**Paul Weiss**"), (ii) Young Conaway Stargatt & Taylor, LLP, as local Delaware counsel, (iii) Houlihan Lokey, as financial advisor, (iv) Slaughter and May, as UK counsel, and (v) an industry focused financial advisor selected by the Unofficial Notes Committee and (vi) solely in the case of a conflict of interest with the DIP Agent, one additional counsel in each relevant foreign jurisdiction (collectively, the "**Notes Advisors**"). The Debtor was by the Interim Order and hereby is authorized, without further notice or order, as part of the Noteholder Adequate Protection Obligations, to use Cash Collateral to pay the reasonable actual and documented professional fees and expenses of the Notes Advisors, including a financing fee payable under the Houlihan Lokey engagement letter in an amount not to exceed \$1,500,000, such payments to be made within ten (10) days of the Debtor's receipt of reasonably documented invoices.

(e) Notes PIK Interest. The Notes shall continue to accrue interest at the applicable contract rate in accordance with and pursuant to the terms of the Existing Indenture

Agreements; *provided* that such accrued interest shall be (i) paid-in-kind (and not in cash) and capitalized to the principal of the Notes on each regularly scheduled interest payment date and (ii) deemed Pre-Petition Notes Debt.

(f) Reporting to Notes Advisors and Pre-Petition Notes Trustee. Unless previously provided pursuant to the DIP Documents, the Debtor shall deliver to the Notes Advisors identified in subparagraph (d)(i) and (iii) and the Pre-Petition Notes Trustee above copies of all financial and other reporting delivered from time to time to the DIP Agent.

(g) Reservation of Rights. Any payments made pursuant to paragraph 15(c) and 15(d) shall be without prejudice to the right of the Creditors' Committee to later contend that such payments should be applied to reduce the principal amount of the Pre-Petition Notes Debt and that payments-in-kind pursuant to paragraph 15(e) shall be without prejudice to the right of the Creditors' Committee to later contend that such payments-in-kind should not be added to the principal amount of Pre-Petition Notes Debt outstanding as of the Petition Date. Nothing in this Order prejudices the Pre-Petition Noteholders and the Pre-Petition Notes Trustee from requesting additional or different adequate protection and nothing in this Order prejudices any other party in interest from objecting to the request for additional or different adequate protection.

16. *Sufficiency of Adequate Protection.* Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Pre-Petition Secured Parties. Except as expressly provided herein, nothing contained in this Final Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to any Pre-Petition Secured Party, the DIP Agent or any DIP Lender including, without limitation, rights of

a party to a swap agreement, securities contract, commodity contract, forward contract or repurchase agreement with a Debtor to assert rights of setoff or other rights with respect thereto as permitted by law (or the right of a Debtor to contest such assertion).

17. *Perfection of DIP Liens and Adequate Protection Liens.*

(a) Subject to the provisions of paragraph 9(a) above, the DIP Agent, the DIP Lenders, and the Pre-Petition Secured Parties were by the Interim Order and hereby are authorized, but not required, to file or record (and to execute in the name of the Debtor, as its true and lawful attorney, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over assets, or take any other action, in each case, in order to validate and perfect the liens and security interests granted to it hereunder. Whether or not the DIP Agent on behalf of the DIP Lenders, the Pre-Petition Notes Trustee on behalf of the Pre-Petition Noteholders or the Pre-Petition ABL Agent on behalf of the Pre-Petition ABL Lenders shall, in their sole discretion, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to it hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge dispute or subordination, at the time and on the date of entry of the Interim Order. Upon the request of the DIP Administrative Agent, each of the Pre-Petition Secured Parties, without any further consent of any party, is authorized and directed to take, execute, deliver and file such instruments (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens. Notwithstanding anything to the contrary

herein, the Pre-Petition Notes Trustee shall, during the pendency of the Case, and absent further order of this Court or direction of the Pre-Petition Noteholders pursuant to the Existing Indenture, only execute and/or cause to be filed the following documents necessary to perfect the UK Adequate Protection Liens: (i) that certain Composite Debenture among Euro Exide Corporation Limited, the other chargors party thereto and Wells Fargo Bank, National Association, as Collateral Agent, (ii) that certain Intercreditor Deed, made between the chargors party thereto, JPMorgan Chase Bank, N. A., in its capacity as senior agent and security agent, and Wells Fargo, National Association, in its capacity as indenture trustee and collateral agent, (iii) any ancillary documents required to give effect to the documents set forth in the foregoing clauses (i) and (ii) and (iv) any other ancillary document relating to the UK Adequate Protection Liens, as directed by Paul Weiss or Slaughter and May.

(b) A certified copy of this Final Order may, in the discretion of the DIP Administrative Agent, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final Order for filing and recording. For the avoidance of doubt, the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the DIP Agent to take all actions, as applicable, referenced in this subparagraph (b) and in the immediately preceding subparagraph (a).

(c) Any provision of any lease (except the Restricted Leases (as defined below)) or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for the Debtor to pledge, grant, sell, assign, or otherwise transfer

any such leasehold interest, or the proceeds thereof, or other post-petition collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code and shall have no force and effect with respect to the grant of post-petition liens, in such leasehold interest or the proceeds of any assignment and/or sale thereof by the Debtor, in favor of the DIP Agent, DIP Lenders or the Pre-Petition Secured Parties in accordance with the terms of the DIP Documents or this Final Order.

(d) Restricted Leases. Notwithstanding anything to the contrary in the Motion, the DIP Documents, the Interim Order or this Final Order, with respect to the Debtor's leases of premises located at 47610 Kato Road, Fremont, California 94538 and 13000 Deerfield Parkway, Alpharetta/Milton, Georgia 30004 (collectively, the "Restricted Lease(s)") and the landlords thereof, the "Landlords") for purposes of this Final Order, the DIP Liens and the Adequate Protection Liens with respect to such Restricted Leases shall only attach to, and be fully enforceable against, the proceeds and products of such Restricted Leases and will not impose a direct lien on (and the Collateral shall not include) the Restricted Leases themselves unless otherwise ordered by the Court in accordance with the procedures set forth herein. If the DIP Agent or DIP Lenders or the Pre-Petition Secured Parties wish to exercise remedies with respect to a Restricted Lease beyond a lien and security interest on the proceeds and products of the prospective disposition of the Restricted Leases, or either of them, the DIP Agent or DIP Lenders or Pre-Petition Secured Parties will file a motion with this Court with respect to whether such Restricted Lease, applicable non-bankruptcy law or the Bankruptcy Code prohibit the granting of liens, mortgages and security interests on or in such Restricted Lease (the "Anti-assignment Issue"), and absent a consensual resolution of the Anti-assignment Issue or entry of another order by this Court to the contrary, the DIP Agent or DIP Lenders or Pre-Petition

Secured Parties will not exercise such remedies until this Court rules on the Anti-Assignment Issue. For the avoidance of doubt, (a) notwithstanding the foregoing, the DIP Liens and the Adequate Protection Liens shall in all events attach to (and the Collateral shall include) all of the Debtor's proceeds, products, offspring or profits from all sales, transfers, or other dispositions or monetizations of the Restricted Leases, and (b) all of the DIP Agent's, DIP Lenders, the Pre-Petition Secured Parties' and Landlords' rights under the Restricted Leases, applicable non-bankruptcy law and section 365 of the Bankruptcy Code with respect to the Anti-assignment Issue to be presented by such motion (if any) are fully reserved.

18. *Preservation of Rights Granted Under this Final Order.*

(a) No claim or lien having a priority superior to or *pari passu* with those granted by the Interim Order or this Final Order to the DIP Administrative Agent and the DIP Lenders shall be granted or allowed while any portion of the DIP Financing (or any refinancing thereof) or the Commitments thereunder or the DIP Obligations remain outstanding, and the DIP Liens shall not be (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code or (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise.

(b) Unless all DIP Obligations shall have been indefeasibly paid in full (and, with respect to outstanding letters of credit issued pursuant to the DIP Credit Agreement, cash collateralized on terms and conditions acceptable to the DIP Administrative Agent in accordance with the provisions of the DIP Credit Agreement) and the Adequate Protection Obligations shall have been paid in full, the Debtor shall not seek, and it shall constitute an Event of Default and terminate the right of the Debtor to use any and all Cash Collateral if the Debtor seeks, or if there

is entered, (i) any modifications or extensions of this Final Order without the prior written consent of the DIP Administrative Agent and the Unofficial Noteholder Committee, and no such consent shall be implied by any other action, inaction or acquiescence by the DIP Agent or the Unofficial Noteholder Committee, or (ii) an order converting or dismissing the Case; (iii) an order appointing a chapter 11 trustee in the Case; or (iv) an order appointing an examiner with enlarged powers in the Case. Notwithstanding the entry of any order dismissing the Case under section 1112 of the Bankruptcy Code or otherwise, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the Superpriority Claims, Adequate Protection Claims, priming liens, security interests and replacement security interests granted to the DIP Administrative Agent and the DIP Lenders and, as applicable, the Pre-Petition Secured Parties pursuant to this Final Order shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all DIP Obligations and Adequate Protection Obligations shall have been indefeasibly satisfied in full (and that such Superpriority Claims, Adequate Protection Claims, priming liens and replacement security interests, shall, notwithstanding such dismissal, remain binding on all parties in interest) and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (i) above.

(c) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacation or stay shall not affect (i) the validity of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Administrative Agent, the Pre-Petition ABL Agent or the Pre-Petition Notes Trustee, as applicable, of the effective date of such reversal, modification, vacation or stay or (ii) the validity or enforceability of any lien or priority authorized or created

hereby or pursuant to the DIP Credit Agreement with respect to any DIP Obligations or Adequate Protection Obligations. Notwithstanding any such reversal, modification, vacation or stay, any use of Cash Collateral or any DIP Obligations or Adequate Protection Obligations incurred by the Debtor to the DIP Agent, the DIP Lenders or the Pre-Petition Secured Parties prior to the actual receipt of written notice by the DIP Administrative Agent, the Pre-Petition ABL Agent or the Pre-Petition Notes Trustee, as applicable, of the effective date of such reversal, modification, vacation or stay shall be governed in all respects by the original provisions of this Final Order, and the DIP Agent, the DIP Lenders and the Pre-Petition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code (including, without limitation, in respect of any payments received in connection with the discharge of the Pre-Petition ABL Liquidated Debt), this Final Order and pursuant to the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) The terms and provisions of this Final Order and the DIP Documents shall continue in this Case, in any successor case, or in any superseding chapter 7 case under the Bankruptcy Code, and (i) the DIP Liens, Superpriority Claims, and all other rights and remedies of the DIP Agent and the DIP Lenders shall continue in full force and effect until the DIP Obligations and/or the Adequate Protection Obligations are indefeasibly paid in full and (ii) the Adequate Protection Liens, Adequate Protection Claims and all other rights and remedies of the Pre-Petition Secured Parties shall continue in full force and effect until the Adequate Protection Obligations are indefeasibly paid in full. Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the Adequate Protection Liens, the Superpriority Claims, the Adequate Protection Claims and all other rights and remedies of the DIP Agent, the DIP Lenders

and the Pre-Petition Secured Parties granted by the provisions of this Final Order and the DIP Documents shall survive, and shall not be modified, impaired or discharged by (i) the entry of an order converting the Case to a case under chapter 7, dismissing the Case or by any other act or omission, (ii) the entry of an order approving the sale of any Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents, and provided that the Adequate Protection Liens and Adequate Protection Claims shall not attach to or have recourse to any Collateral so disposed of after the consummation of any such sale and shall have recourse solely to the proceeds of any Collateral so disposed of solely to the extent permitted by and not inconsistent with this Order and the DIP Documents) or (iii) the entry of an order confirming a chapter 11 plan in the Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtor has waived any discharge as to any remaining DIP Obligations.

19. *Effect of Stipulations on Third Parties.* The stipulations and admissions contained in this Final Order, including, without limitation, in paragraph 4 of this Final Order, shall be binding upon the Debtor and its subsidiaries and any of their respective successors (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for the Debtor) in all circumstances. The stipulations and admissions contained in this Final Order, including, without limitation, in paragraph 4 of this Final Order, shall be binding upon all other parties in interest, including, without limitation, the Creditors' Committee and any other committee appointed in this Case and any other person or entity acting on behalf of the Debtor's estate, unless and except to the extent that (a) a party in interest has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in paragraph 20) by no later than September 26, 2013 or such later date (x) as has been agreed to, in writing, by the Pre-Petition ABL Agent or the Pre-Petition Notes Trustee (as applicable) in its sole discretion or (y)

as has been ordered by the Court (the “**Challenge Period**”), (i) challenging the validity, enforceability, priority or extent of the Pre-Petition Secured Obligations or the ABL Security Interests or the Notes Security Interests or (ii) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, “**Claims and Defenses**”) against any of the Pre-Petition Secured Parties or their affiliates, representatives, attorneys or advisors in connection with matters related to the Existing Agreements, the Pre-Petition ABL Debt, the Pre-Petition Notes Debt and the Pre-Petition Collateral, and (b) there is a final order in favor of the plaintiff sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter; *provided that*, (i) as to the Debtor, all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date and (ii) any challenge or claim shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be forever deemed waived, released and barred. If no such adversary proceeding or contested matter is timely filed, (w) to the extent not heretofore repaid, the Pre-Petition ABL Debt and all related obligations of the Debtor (the “**Pre-Petition ABL Obligations**”) and Pre-Petition Notes Debt and all related obligations of the Debtor (together with the Pre-Petition ABL Obligations, the “**Pre-Petition Obligations**”) shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense or avoidance, for all purposes in the Case and any subsequent chapter 7 case, (x) the ABL Security Interests and the Notes Security Interests shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected, not subject to recharacterization, subordination or avoidance, (y) the Pre-Petition Obligations, ABL Security Interests, the Notes Security Interests and the Pre-Petition

Secured Parties shall not be subject to any other or further challenge by any party in interest seeking to exercise the rights of the Debtor's estate, including, without limitation but only upon expiration of the Challenge Period, any successor thereto (including, without limitation, any chapter 7 or 11 trustee appointed or elected for the Debtor) and (z) the discharge of the Pre-Petition ABL Debt shall be irrevocable and shall not be subject to restitution, disgorgement or any other challenge under any circumstances, including, without limitation but only upon expiration of the Challenge Period, pursuant to any Claims and Defenses. If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph 4 of this Final Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on the Creditors' Committee and any other committee appointed in this Case and on any other person or entity, except to the extent that such findings and admissions were expressly challenged in such adversary proceeding or contested matter. In the event that there is a timely and successful challenge, pursuant and subject to the limitations contained in this paragraph 19, to the validity, enforceability, extent, perfection or priority of the Pre-Petition ABL Debt or the Pre-Petition Notes Debt (as applicable), the Court shall have the power to unwind or otherwise modify, after notice and hearing, the discharge of the Pre-Petition ABL Debt or a portion thereof (which might include the disgorgement or re-allocation of interest, fees, principal or other incremental consideration paid in respect of the Pre-Petition ABL Debt or the avoidance of liens and/or guarantees with respect to the Debtor), as the Court shall determine, and shall grant such relief as appropriate to effectuate such timely and successful challenge of the Pre-Petition Notes Debt. The Creditors' Committee is granted standing and authority to pursue any Claims and Defenses in the name and on behalf of the Debtor and its estate, however nothing in this Final Order vests or confers on any Person (as

defined in the Bankruptcy Code), including any committee appointed in this Case other than the Creditors' Committee, standing or authority to pursue any cause of action belonging to the Debtor or its estate, including, without limitation, Claims and Defenses with respect to the Existing Agreements or the Pre-Petition Secured Obligations. For the avoidance of doubt, any chapter 7 or chapter 11 trustee appointed or elected in this case shall, until the expiration of the Challenge Period provided herein with respect to the Pre-Petition Obligations, and thereafter for the duration of any adversary proceeding or contested matter timely and properly commenced pursuant to this paragraph 19 (whether commenced by such trustee or commenced by any other party in interest on behalf of the Debtor's estate), be deemed to be a party other than the Debtor or a successor to the Debtor, and shall not, for purposes of such adversary proceeding or contested matter, be bound by the acknowledgments, admissions, confirmations, stipulations and waivers of the Debtor in this Final Order.

20. *Limitation on Use of DIP Financing Proceeds and Collateral.* Notwithstanding anything herein or in any other order by this Court to the contrary, no borrowings, letters of credit, Cash Collateral, Collateral or the Carve Out may be used, in the Case or any other proceeding of any kind, or in any jurisdiction, to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the DIP Documents or the Existing Agreements, or the liens or claims granted under the Interim Order, this Final Order, the DIP Documents or the Existing Agreements, or the Adequate Protection Liens or Adequate Protection Claims, (b) investigate, assert or prosecute any Claims and Defenses or causes of action against the DIP Agent, the DIP Lenders or the Pre-Petition Secured Parties or their respective agents, affiliates, representatives, attorneys or advisors, (c) prevent, hinder or otherwise delay the DIP Agent's or the Pre-Petition Secured Parties' assertion,

enforcement or realization against or upon the Cash Collateral or the Collateral in accordance with the DIP Documents, the Existing Agreements, the Interim Order or this Final Order, (d) seek to modify any of the rights granted to the DIP Agent, the DIP Lenders or the Pre-Petition Secured Parties hereunder or under the DIP Documents or the Existing Agreements, in each of the foregoing cases without such applicable parties' prior written consent or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court and (ii) permitted under the DIP Documents; *provided* that, advisors to the Creditors' Committee may investigate the liens granted pursuant to the Existing Agreements during the Challenge Period and prosecute any causes of action in connection therewith at an aggregate expense for such investigation and prosecution not to exceed \$125,000.

21. *Payments Held in Trust.* Except as expressly permitted in this Final Order or the DIP Documents, in the event that any person or entity receives any payment on account of a security interest in Collateral, receives any proceeds of Collateral or receives any other payment with respect thereto from any other source prior to indefeasible satisfaction of all DIP Obligations under the DIP Documents, and termination of the Commitments in accordance with the DIP Documents, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of Collateral in trust for the benefit of the DIP Agent and DIP Lenders and shall immediately turn over such proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Final Order.

22. *Credit Bidding.*

(a) The DIP Agent shall, acting at the direction of the requisite DIP Lenders, have the right to credit bid up to the full amount of the DIP Obligations in any sale of the

Collateral subject to and to the extent permitted under 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(b) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise.

(b) Subject to the indefeasible satisfaction and discharge in full of all DIP Obligations and the termination of the Commitments under the DIP Credit Agreement, the Pre-Petition Notes Trustee or its assignee, designee or successor may “credit bid” up to the full amount of the Pre-Petition Notes Debt then outstanding for the assets and property of the Debtor (to the extent such assets are Notes Collateral (as defined in the ICA) or secured by Note Adequate Protection Liens (but with respect thereto, solely to the extent of the value of the Notes Adequate Protection Liens)) subject to and to the extent permitted under section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(b) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise. For the avoidance of doubt, all DIP Obligations must be indefeasibly satisfied and paid in cash in full, and the Commitments thereunder terminated, at or prior to the closing of any sale in which the Pre-Petition Notes Debt is credit bid as any portion of the consideration paid in respect of such sale, without prejudice to the DIP Agent’s right to make a competing credit bid of up to the full amount of the DIP Obligations in any sale in which all or any part of the Pre-Petition Notes Debt is credit bid.

23. *Notice of Professional Fees.* A copy of each invoice submitted to the Debtor for professional fees and expenses (to the extent incurred by such professionals after the Closing Date (as defined in the DIP Credit Agreement)) the payment of which is authorized by paragraphs 6(b)(iii), 6(b)(v), 14(c), 15(c) or 15(d) above (such fees and expenses, the

“Professional Fees”) shall be substantially simultaneously sent to the U.S. Trustee, counsel for the DIP Agent and counsel for any Creditors’ Committee (collectively, the **“Professional Fee Notice Parties”**). The invoices for such Professional Fees shall include the number of hours billed and a reasonably detailed description of the services provided and the expenses incurred by the applicable professional; *provided, however*, that any such invoice (i) may be redacted to protect privileged, confidential or proprietary information, (ii) shall not be required to contain individual time detail and (iii) of any financial advisor or investment banker shall not include the number of hours billed or a description of services rendered if the engagement letter of the relevant financial advisor or investment banker describes the services to be rendered and the fee amount requested and services rendered are consistent with the relevant engagement letter. The Debtor and the Professional Fee Notice Parties shall have 7 days after receipt of the applicable invoice to submit (to the applicable professional, the Debtors and the Professional Fee Notice Parties) a written objection to the reasonableness of such Professional Fees, which must contain a specific basis for the objection and quantification of the undisputed amount of the fees and expenses invoiced, and failure to object with specificity or to quantify the undisputed amount of the invoice subject to such objection will constitute a waiver of any objection to such invoice. None of the Professional Fees shall be subject to Court approval or required to be maintained in accordance with the U.S. Trustee Guidelines, and no recipient of any payment on account thereof shall be required to file with respect thereto any interim or final fee application with the Court. Payment of Professional Fees shall not be delayed based on any objections thereto, and the relevant professional shall only be required to disgorge amounts objected to upon being “so ordered” pursuant to a final non-appealable order of this Court.

24. *No Waiver Under the ICA.* Subject to paragraph 9(e) hereof, nothing herein shall be considered a waiver of any rights of any party under the ICA.

25. *Retention of Jurisdiction.* This Court has and will retain jurisdiction to enforce this Final Order according to its terms.

26. *Order Governs.* In the event of any inconsistency between the provisions of this Final Order and the DIP Documents or the Interim Order, the provisions of this Final Order shall govern.

27. *Miscellaneous.*

(a) Notwithstanding anything to the contrary in this Order or the DIP Credit Agreement, nothing in this Order or the DIP Credit Agreement relieves the Debtor of any obligations under federal, state or local police or regulatory laws or under 28 U.S.C. § 959(b).

(b) Solely to the extent required by applicable law, nothing in this Final Order or the DIP Documents shall be deemed to (i) discharge, release or otherwise preclude any valid right of setoff or recoupment of any governmental unit (as defined under 11 U.S.C. § 101(27)) or any agency, department or agent thereof, (ii) release, nullify, preclude or enjoin the enforcement of any liability of any Debtor (including for penalties, damages, cost recovery or injunctive relief) to a governmental unit or any agency, department or agent thereof under applicable police and regulatory statutes or regulations (including but not limited to environmental laws or regulations), (iii) diminish the Debtors' obligations to comply with applicable environmental or public health laws, or (iv) impair or adversely affect any claim of any governmental unit or any agency, department or agent

thereof with respect to any letter of credit, financial assurance, or insurance proceeds for liabilities under environmental laws.

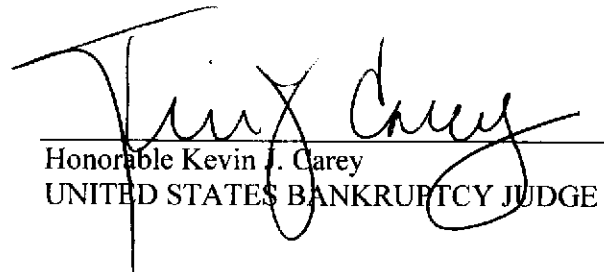
28. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in this Case, including, without limitation, the DIP Agent, the DIP Lenders, the Pre-Petition Secured Parties, the Creditors' Committee and any other committee appointed in this Case, and the Debtor, its subsidiaries and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of the Debtor) and shall inure to the benefit of the DIP Agent, the DIP Lenders, the Pre-Petition Secured Parties, and the Debtor, its subsidiaries (each of which subsidiaries, by entering into the DIP Financing arrangements approved hereby, expressly consents to the jurisdiction of this Court) and their respective successors and assigns; *provided, however*, that the DIP Agent and the DIP Lenders shall have no obligation to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estate of the Debtor. In determining to make any loan under the DIP Credit Agreement or to exercise any rights or remedies as and when permitted pursuant to the Interim Order, this Final Order or the DIP Documents, the DIP Agent and the DIP Lenders shall not solely by reason thereof be deemed to be in control of the operations of or participating in the management of the Debtor or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any similar federal or state statute), except that this Paragraph shall apply to environmental liabilities only so long as the actions of the DIP Agent and DIP Lenders do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual

participation in the management or operational affairs of a vessel or facility owned or operated by the Debtor, or otherwise cause lender liability to arise or the status of control, responsible person, owner, or operator to exist under applicable law.

29. Effectiveness. This Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9024 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

Dated: Wilmington, Delaware

July 25, 2013



Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE