

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Exide Technologies (“Exide”) and the South Coast Air Quality Management District (“District”) (collectively referred to as “Parties” or individually as “Party”):

### RECITALS

- A. The District is a political subdivision of the State of California created by the legislature to exercise responsibility for comprehensive air pollution control within Orange County and designated portions of Los Angeles, Riverside and San Bernardino Counties, California.
- B. Exide is a Delaware corporation subject to the jurisdiction of the District. Exide owns and operates a secondary lead smelting facility (Facility ID No. 124838) located at 2700 South Indiana Street, Vernon, CA 90058.
- C. District Rule 203(b) requires that equipment shall not be operated contrary to the conditions specified in the permit to operate issued to the facility.
- D. District Rule 2004(f)(1) requires compliance with all terms, requirements, and conditions specified in Exide’s RECLAIM permit.
- E. District Rule 3002(c)(1) requires all equipment located at a Title V facility to be in compliance with all terms, requirements, and conditions specified in the Title V permit at all times.
- F. District Rule 1407(d)(5) relating to the control of arsenic emissions states that “Good operating practices shall be used by the facility, and demonstrated through a maintenance program and the use of measuring devices, or other procedures approved by the District, to maintain air movement and emission collection efficiency by the system consistent with the design criteria for the system.”
- G. In SCAQMD Hearing Board Case No. 3151-29, the District is seeking an Order for Abatement against Exide and has alleged that Exide has violated and is expected to continue violating District Rules 203(b), 2004(f)(1), 3002(c)(1), and 1407(d)(5) by failing to adequately control arsenic emissions from its smelting operations. Hearings have been held in this case on December 14, 2013 and January 7, 21, 22, 23, 28, February 5, 6, 18, March 12 and 18, 2014. Exide denies these allegations and has filed a Motion to Dismiss the Petition.
- H. District Rule 1420.1 requires, in relevant part, that no person who owns/operates a lead-processing facility shall discharge into the atmosphere emissions which contribute to ambient concentrations of lead that exceed 0.150 µg/m<sup>3</sup> averaged over 30 days.
- I. In SCAQMD Hearing Board Case No. 3151-32, the District is seeking an Order for Abatement against Exide and has alleged that Exide has violated and is expected to

continue violating District Rule 1420.1 by failing to adequately control lead emissions from dust associated with construction and maintenance activities at the Vernon facility. Exide denies these allegations.

- J. A hearing on the Orders for Abatement, Case Nos. 3151-29 and 3151-32, has been jointly set for July 9, 2014.
- K. The District has also filed a civil lawsuit against Exide, entitled *People of the State of California ex rel. South Coast Air Quality Management District v. Exide Technologies*, Los Angeles Superior Court Case No. BC533528. Exide has filed an Answer to that Complaint and denies all of the allegations contained therein.
- L. Exide has filed a Petition for a Writ of Mandate and a Complaint for Declaratory Relief against the District. That action, entitled *Exide Technologies v. South Coast Air Quality Management District Governing Board*, Los Angeles Superior Court Case No. BS146770, seeks to invalidate certain recently adopted amendments to District Rule 1420.1 by alleging various legal deficiencies during the rulemaking process. The District denies all of the allegations made in that Petition and Complaint.
- M. The Parties enter into this Agreement for the purpose of finally resolving the above-referenced Petitions for Orders for Abatement and Exide's Superior Court case challenging Rule 1420.1. The Parties agree to be bound by the terms and conditions of this Agreement. No provision of this Agreement shall be construed as an admission of any claim or allegation of wrongdoing or violation of any law, statute, ordinance, rule or regulation by Exide or the District.
- N. Potential civil penalties associated with the violations alleged in the Petitions for Orders for Abatement are not resolved or released by execution of this Agreement. Resolution of these penalties, if any, shall be addressed through resolution of the civil lawsuit pending in the Superior Court of California for the County of Los Angeles, entitled *People of the State of California, ex rel. South Coast Air Quality Management District v. Exide Technologies*, Case No. BC533528 and – as applicable under the parties' stipulation – in *In Re Exide Technologies*, U.S. Bankruptcy Court for the District of Delaware Case No. 13-11482.

### **AGREEMENTS**

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. **Effective Date:** The effective date of this Agreement shall be the date upon which the last party executes it.
2. **Orders for Abatement:** Exide agrees to immediately withdraw its pending Motion to Dismiss in SCAQMD Hearing Board Case No. 3151-29. The parties jointly agree to entry of the attached Orders for Abatement in SCAQMD Hearing Board Case Nos. 3151-29 and 3151-32 and all of the conditions set forth in the attached Proposed Findings and

Decision. The Order in Case No. 3151-29 shall incorporate and attach the Risk Reduction Plan approved by the District on March 19, 2014. The Order in Case No. 3151-32 shall incorporate and attach the Mitigation Plan for Construction of Risk Reduction Measures, RCRA RFI Sampling, and Other Plant Activities (“Mitigation Plan”) submitted by Exide on June 19, 2014. Copies of the orders and plans are attached as Appendices 1-4.

3. Interim Enforceability: Pending issuance of the Order for Abatement in Case No. 3151-32, Exide agrees to implement and abide by all terms, conditions, control measures, and practices set forth in the Mitigation Plan attached hereto as Appendix 4 and that the Mitigation Plan will be enforceable with the same force and effect as if issued as an Order for Abatement by the Hearing Board of the South Coast Air Quality Management District. Violation of the Mitigation Plan prior to formal approval of the Orders by the Hearing Board will subject Exide to possible administrative and civil actions, including but not limited to an action for civil penalties and injunctive relief. Nothing herein shall be deemed to limit or preclude the right of the District to seek civil penalties, injunctive or any other legal or administrative relief allowed by law for any other violations of District rules or any other applicable regulations or law.
4. Dismissal of Writ/Declaratory Relief Action: Within 10 days of the issuance of the Orders for Abatement in Case Nos. 3151-29 and 3151-32, as agreed to by the Parties, Exide agrees to file a Dismissal with Prejudice of *Exide Technologies v. South Coast Air Quality Management District Governing Board*, Case No. BS146770.
5. No Admission of Liability: The purpose of this Agreement is to effectuate resolution of the pending Order for Abatement proceedings and does not settle any penalties for the underlying violations related to those proceedings. Nothing contained in this Agreement shall constitute or be construed, considered, offered, or admitted, in whole or in part, as evidence of, or an admission of evidence of, fault, wrongdoing, liability, or violative conduct by any Party or its respective present or former officers, directors, agents, representatives, employees, servants, affiliates, contractors, attorneys, shareholders, partners, dealers, successors-in-interest, parents, and assigns, in any administrative or judicial proceeding or litigation in any court, agency, or forum whatsoever. It is acknowledged that the Parties’ covenants, agreements, and recitals set forth herein are in consideration of this Agreement and are given for the purpose of avoiding the costs and expenses of further legal proceedings in Hearing Board Case Nos. 3151-29 and 3151-32 and *Exide Technologies v. South Coast Air Quality Management District Governing Board*, Case No. BS146770.
6. No Effect on the District’s Lawsuit Against Exide: Nothing in this Agreement shall in any way affect the status or resolution of the District’s lawsuit against Exide, entitled *People of the State of California ex rel. South Coast Air Quality Management District v. Exide Technologies*, Los Angeles Superior Court Case No. BC533528. That lawsuit shall proceed on its own schedule irrespective of this Agreement.
7. Compliance with Existing Laws and Regulations: Nothing in this Agreement shall be construed to limit or excuse Exide’s duty to comply with all applicable laws and regulations with regard to its business operations.

8. Warranty of Authority: Each of the Parties hereto represents and warrants that it has the full power and authority to enter into this Agreement, and that the signatories to the Agreement have been duly authorized to execute the Agreement and to bind the entities on whose behalf they have signed below.
9. Successors and Assigns: This Agreement shall be deemed to obligate, extend to, and inure to the benefit of the Parties to the Agreement, and the legal successors, assigns, transferees, grantees, and heirs of each such Party.
10. Entire Agreement: This Agreement contains the entire Agreement of the Parties with respect to specific matters covered by this Agreement, and no other agreements, statements or promises made by or to any Party or any employee, officer or agent of any Party, shall be valid or binding with respect to said matters. This Agreement supersedes all prior proposals, agreements, and understandings between the Parties and may not be changed or terminated orally, and no change, termination, or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the Party against whom the same is sought to be enforced.
11. Recital Incorporation: The Recitals are made a part of this Agreement as if they were fully written herein.
12. No Party Deemed Drafter: The Parties acknowledge that the terms of this Agreement are contractual and are the result of negotiations between the Parties and their respective counsel. Each Party and their respective counsel cooperated and participated in the drafting and preparation of this Agreement. If any part of this Agreement is deemed to be ambiguous or in conflict, it shall be deemed and construed as if it were drafted jointly by the Parties.
13. Severability: If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable, then such provision shall be enforced to the extent that it is not illegal, invalid, unlawful, void, or unenforceable, and the remainder of this Agreement shall continue in full force and effect.
14. Governing Law: The validity, construction and performance of this Agreement shall be governed by the laws of the State of California, regardless of the choice-of-law provisions of California or any other jurisdiction.
15. Attorneys' Fees and Costs: Each party shall bear its own attorneys' fees and costs in connection with the alleged violations and the matters resolved by this Agreement.
16. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same document. The Parties may execute and deliver this Agreement by transmitting an authorized signature by fax or .pdf, and copies of this Agreement signed and delivered by means of faxed signatures or signatures in a .pdf document shall have the same effect as copies executed and delivered with original signatures.

17. Notices: All notices, requests, and other communications which may be given under or concerning this Agreement shall be made in writing and shall be deemed to have been given when received. In each case notice shall be sent to:

For EXIDE TECHNOLOGIES:

Charles Giesige  
Vice President of Recycling Operations -- Americas  
Exide Technologies  
13000 Deerfield Parkway, Building 200  
Milton, GA 30004  
Telephone: (678) 566-9000  
Facsimile: (678) 566-9342  
Email: [chuck.giesige@na.exide.com](mailto:chuck.giesige@na.exide.com)

John Hogarth  
Plant Manager  
Vernon Recycling Center  
Exide Technologies  
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For SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT:

Nancy S. Feldman  
Principal Deputy District Counsel  
South Coast Air Quality Management District  
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IN WITNESS THEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the date set forth below their respective signatures.

SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT

EXIDE TECHNOLOGIES

By: \_\_\_\_\_  
Nancy S. Feldman  
Principal Deputy District Counsel

By: \_\_\_\_\_  
Bruce Cole  
Executive Vice President; Strategic  
Business Development; President of  
Industrial Power, Recycling, R&D;  
President of Asia Pacific

Dated: \_\_\_\_\_, 2014

Dated: \_\_\_\_\_, 2014