IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VICTOR M. KOELSCH, Petitioner, v. EXIDE TECHNOLOGIES, INC., Respondent.	)	Civil Action File No. 2020CV333583

PETITION FOR CONFIRMATION OF ARBITRATION AWARD AND ISSUANCE OF FINAL JUDGMENT

Pursuant to O.C.G.A. §§ 9-9-12 and 9-9-15, Petitioner Victor M. Koelsch ("Petitioner" or "Koelsch") hereby files this Petition for Confirmation of Arbitration Award and Issuance of Final Judgment against Respondent Exide Technologies ("Respondent" or "Exide").

PARTIES

1.

Exide Technologies is a Delaware corporation with its principal place of business located in Fulton County at 13000 Deerfield Pkwy., Bldg. 200, Milton, Georgia, 30004. Exide may be served through its registered agent CT Corporation System, 289 S. Culver St., Lawrenceville, Georgia 30046.

2.

Victor M. Koelsch is an individual resident of the State of Minnesota.

JURISDICTION AND VENUE

3.

Pursuant to Ga. Const. Art. VI, § II, Para. VI and O.C.G.A. §§ 9-9-4(b)(3) and 14-2-510(b), venue and jurisdiction over Exide are proper in this Court because Exide does business and is deemed to reside in Fulton County and the arbitration hearing was conducted in Fulton County.

4.

The parties' arbitration agreement permits a judgment to be entered on a resulting award in any court of competent jurisdiction.

FACTS

A. Overview

5.

Koelsch is the former CEO of Exide. The parties' dispute arose after Exide terminated Koelsch without cause in November 2018 but later refused to pay him the severance owed to him under the parties' employment agreement. *See* February 7, 2020 Final Award by F. Carlton King, Esq. at 3 ("Arbitration Award"), attached hereto as Ex. 1.

6.

Although Exide assured Koelsch his termination was "obviously without cause" when it occurred in November 2018, Exide later purported to "reclassify"

Koelsch's termination as "for cause" and communicated this change to Koelsch in February 2019. Ex. 1 at 3.

7.

Exide's motive for the "reclassification" was to avoid paying Koelsch his severance, which Exide's lawyers estimated to be worth around $6 million. Exide was in a liquidity crisis in early 2019 and needed to find ways to save money. Ex. 1 at 4.

8.

Exide attempted to justify its refusal to pay Koelsch by alleging that Koelsch had been grossly negligent during his tenure as CEO. In particular, Exide argued that Koelsch had failed to follow up on a potential business opportunity with a Chinese battery manufacturer, Camel Energy ("Camel"), or to inform Exide's Board of Directors about that potential opportunity. Ex. 1 at 1, 3-4.

9.

When Exide informed Koelsch in February 2019 that it would not be paying his severance, Exide identified no other basis for its allegation of gross negligence than Koelsch's dealings with Camel.

B. Arbitration Award

10.

Koelsch filed a Demand for Arbitration in JAMS almost immediately after learning that Exide was refusing to pay his severance. Ex. 1 at 5.

11.

The parties participated in a hearing at JAMS on October 29-30, 2019, before F. Carlton King, Esq. (the "Arbitrator").

12.

On February 7, 2020, the Arbitrator issued a Final Award in favor of Koelsch. The Arbitrator ruled that Exide was not entitled to avoid performance of its employment agreement with Koelsch because 1) Delaware law did not allow Exide to rely on "after-acquired evidence," *i.e.*, discovery of Koelsch's conduct vis-à-vis Camel after his termination, to "reclassify" Koelsch's termination after the fact; and 2) Koelsch's conduct vis-à-vis Camel was not grossly negligent under Delaware law. *See* Ex. 1 at 5-8.

13.

Under the Final Award, Koelsch is entitled to $3,692,134.81 in unpaid salary and monetized benefits; $23,090.80 in arbitration fees; $244,215.31 in pre-judgment interest as of February 7, 2020; and transfer of certain equity shares in Exide. *See* Ex. 1 (including Ex. A to the Final Award).

C. The Arbitration Award Should Be Confirmed

14.

Pursuant to O.C.G.A. § 9-9-12, this Petition for confirmation of the Arbitration Award is made within one year of the date of its delivery to the Plaintiff.

15.

O.C.G.A. § 9-9-12 provides that the court "*shall* confirm an award upon application of a party made within one year after its delivery to him, unless the award is vacated or modified by the court as provided in this part."

16.

The Arbitration Award has not been modified or vacated by any court.

17.

"It is well established under both federal and Georgia law that 'judicial review of an arbitration award is among the narrowest known to the law.'" *Malice v. Coloplast Corp.*, 278 Ga. App. 395, 397 (2006) (quoting *Gupta v. Cisco Sys.*, 274 F.3d 1, 3 (1st Cir. 2001)), *superseded by statute on other grounds as noted in Murphree v. Yancey Bros. Co.*, 311 Ga. App. 744, 747 n. 10 (2011). Courts are required to give extraordinary deference to arbitration awards. *See Brookfield Country Club, Inc. v. St. James-Brookfield, LLC*, 299 Ga. App. 614, 617 (2009). The Federal Arbitration Act presumes that arbitration awards will be confirmed.

See Rosensweig v. Morgan Stanley & Co., Inc., 494 F.3d 1328, 1333 (11th Cir. 2007).

COUNT I – Confirmation Of the Arbitration Award

18.

Koelsch incorporates Paragraphs 1 through 17 above as if fully restated herein.

19.

Pursuant to O.C.G.A. § 9-9-12, Koelsch is entitled to confirmation of the Arbitration Award by this Court.

COUNT II – Entry Of Final Judgment

20.

Koelsch incorporates Paragraphs 1 through 19 above as if fully restated herein.

21.

Upon the confirmation of the Arbitration Award by this Court, Koelsch is entitled to a judgment against Exide, as the Arbitration Award will become a judgment of this Court pursuant to O.C.G.A. § 9-9-15.

COUNT III – Attorneys' Fees

22.

Koelsch incorporates Paragraphs 1 through 21 above as if fully restated herein.

23.

Upon conclusion of the hearing in this matter, Exide Chairman and CEO Tim Vargo promised Koelsch that Exide would honor the Arbitrator's ruling and pay Koelsch's severance package if Exide lost.

24.

Exide has not paid Koelsch the sums due under the Final Award.

25.

Exide has acted in bad faith, has been stubbornly litigious, and has caused Koelsch unnecessary trouble and expense, by, among other things, failing to comply with the terms of the Arbitration Award.

26.

Pursuant to O.C.G.A. § 13-6-11, Koelsch is entitled to recover from Exide his expenses of litigation, including, but not limited to, attorneys' fees.

WHEREFORE, Petitioner prays that this Court:

(a) Issue an Order confirming the Arbitration Award;

(b) Issue a Final Judgment and incorporate the Arbitration Award into a Final Judgment and Decree and order the parties to comply with the terms thereof;

(c) Award Petitioner prejudgment interest accruing through the date of the Final Award and up until the date this Court enters judgment;

(d) Award Petitioner expenses of litigation, including attorneys' fees, against Exide, pursuant to O.C.G.A. § 13-6-11; and

(e) Award Petitioner such other and further relief as this Court deems just and appropriate.

Respectfully submitted, this 21st day of February, 2020.

/s/ Jeffrey D. Horst
Jeffrey D. Horst
Georgia Bar No. 367834
Josh I. McLaurin
Georgia Bar No. 169227
Counsel for Petitioner

KREVOLIN & HORST, LLC
1201 W. Peachtree Street, N.W.
Suite 3250, One Atlantic Center
Atlanta, GA 30309
(404) 888-9700
(404) 888-9577 (facsimile)

EXHIBIT 1

EXHIBIT 1

JAMS ARBITRATION NO. 1440006167

VICTOR M. KOELSCH

Claimant

V.

EXIDE TECHNOLOGIES, INC.

Respondent

FINAL AWARD

Respondent Exide is a manufacturer of lead acid batteries, primarily for the automotive aftermarket, with over 100 years of doing business. Coming out of its second bankruptcy, it recruited Claimant Koelsch from his position at Michelin Tire Co. to be CEO going forward. Three years into his tenure, working to meet the strategic plan for Fiscal Year 2019 approved by the Exide Board, he was asked to meet with representatives of a Chinese battery manufacturer, Camel Energy, at a trade show. Although the exact purpose of the meeting was not known in advance, he and two of his subordinates met with the Camel representatives, and agreed to meet again later that same day, to discuss potential business opportunities.

In those meetings, Camel representatives conveyed their desire to gain a foothold in the U.S. marketplace, the desire for U.S. manufacturing capacity, in an unspecified amount, and the desire for a limited initial investment. While Exide

had no additional capacity available, Claimant did suggest that Exide had idle manufacturing facilities that were for sale, and Camel expressed interest.

Claimant was reluctant to consider sale of an Exide plant to Camel due to concerns about enabling a competitor in the U.S. Evidence at hearing corroborated both that Camel has an interest in the automotive battery aftermarket, and that Exide would want to exclude Camel from that market. It was also apparent from the evidence presented at hearing that Claimant did not expect anything to reduce to agreement quickly and that deals with the Chinese do, in fact, take a long time to negotiate.

The meetings adjourned with the parties having executed non-disclosure agreements, and with Camel promising financial statements in English and Exide promising additional information on one of its idle facilities located in Bristol, TN. Neither side produced what was promised.

Claimant asked a subordinate, charged earlier with developing information on non-producing properties in hopes of sales, to develop an information package to send to Camel, which she did. Claimant testified that he requested more current valuation information on the facility which he never received, but the subordinate denied that such a request was made. Claimant also testified that a voicemail to a Camel representative was never returned, and that Camel representatives never communicated with him directly after the trade show meetings. Claimant never thought the prospect of a Camel deal significant enough to bring to the Board, the Chairman having charged him to wait until transactions were beyond exploratory conversation to inform the board. That Claimant had discretion to determine what to present to the Board is not disputed.

The meetings had occurred on April 30, 2018. The previous December, Exide's Board had rejected a joint venture with a Chinese company, deciding that such a transaction should not be considered for several years. Exide's Fiscal Year 2019 had begun April of 2018, and the priority of the strategic planning for FY 2019 was to improve Exide's profitability. While the sale of non-producing manufacturing facilities was also a goal, it did not then have the priority that it would later receive. Doing business with Camel does not appear to have been addressed by Claimant after May 31, 2018.

Unbeknownst to Claimant, a decision to fire him was made by the Board at a meeting in September, 2018, but it was not until November 13 that Claimant learned of the termination of his employment. He had a written employment agreement that provided a severance package for termination without cause, without which he would not have taken the job. When he was told he was being terminated, he was also told it was "obviously without cause" and presented with a term sheet related to his severance that was said to be consistent with the terms of his contract. He agreed to be available through the end of the year for any transitional assistance he could offer, but the new CEO, Board Member Tim Vargo, never even had a transition conversation with Claimant in which Camel could have come up.

Over the course of the following months, there were negotiations respecting the fine points of Claimant's severance package. Claimant was told the agreed upon package finally had been sent to the board for final approval. In February 2019, Claimant inquired about the status of his severance. He was told that his termination had been "reclassified" to one "for cause". The cause was later specified to be his failure to inform the Board of the Camel "opportunity" and that he "dropped the ball" with respect to pursuit of Camel. At hearing, Exide

maintained that the specified conduct constituted gross negligence under Delaware law, either of which is a "cause" specified in Claimant's contract.

The Camel issue appears to have arisen as a result of a decision made after Claimant's termination, to give greater priority to the sale of non-producing properties because of liquidity issues. This new emphasis was communicated by Vargo in January 2019, to one of the people who had attended the original Camel meetings, Ted Becker. Becker asked Vargo what ever became of the possible Camel interest in Bristol. Vargo then raised the manner in which the Camel matter was handled, or not handled according to Exide, with the entire Board in connection with consideration of the "reclassification" of Claimant's termination.

Although Exide contends that its then financial condition had nothing to do with the "reclassification", it is undisputed that in early 2019, Exide was in a liquidity crisis, had been refused additional money by its creditor owners, and was looking to raise capital or find bridge financing. It is of note that there were owner/creditors in attendance at the Board meeting when the "reclassification" decision was made. It is difficult not to conclude that avoiding having to fund a severance package estimated by Exide's lawyers to be worth almost $6 million, was the motive for the "reclassification".

It should also be noted that following the January 2019 conversation between Vargo and Beck, contact with Camel was resumed by Exide, and appeared to be ongoing at the time of the Hearing. Much of what has passed between Exide and Camel in 2019 suggests that Claimant's 2018 view of the potential possibilities of a Camel deal were realistic and reasonable. The discussions appear to have remained about as exploratory as they were in the first meetings. Thus it is difficult to see how Exide was harmed by Claimant's

decision not to actively pursue a deal with Camel, and Exide has not undertaken to establish any harm. Exide's response to that missing element is that it is the nature of Claimant's conduct, not the consequences of it, that is the only relevant inquiry.

Almost immediately after learning that Exide did not intend to give him his severance, Claimant initiated this arbitration. Claimant's contract specifies that it will be construed and enforced applying Delaware law.

Perhaps the first legal issue to be addressed is whether so-called "after acquired evidence" should be considered in this case. Such evidence is facts and circumstance of which a decision maker was unaware, but which later come to light and are alleged to justify the earlier action taken. Claimant cites a Delaware Chancery Court opinion which notes that Delaware law has not embraced the after acquired evidence doctrine when that evidence is relied upon as the sole justification for the action taken. *Lord v. Peninsula Methodist Homes, Inc.,* 2001 WL 392237, *6 (Del. Ch. 2001) (declining to apply the doctrine in a wrongful discharge case); *A&J Capital, Inc. v. Law Office of Krug,* 2019 WL 367176 at *11, fn128 *(Del. Ch. 2019)*(action cannot be justified "by searching for grounds after the fact.") Exide suggests that a Delaware Chancery decision need not be followed, as it is only a trial level court. However, four out of the six cases Exide cites related to the definition of gross negligence in Delaware are Chancery decisions, as are numerous others relied on by Exide. Exide cites no authority for the use of after acquired evidence to change a "without cause" termination to a "for cause" termination, nor does it cite any Delaware decision contrary to the ones relied on by Claimant. I will follow the only on-point Delaware authority cited.

Additionally, there is the question of whether the evidence relied upon was truly "after-acquired". While Vargo may not have known about the Camel

meetings, he was the only Board member to testify. He acknowledged that the former Chairman knew of Camel, and never suggested or directed that Camel be pursued for a business opportunity. There was also evidence that Camel had been trying to enter the U.S. market for ten years, and presumably other Board members were aware of this fact. Despite "countless" conversations with Vargo after Claimant's termination, Becker, President of the American operations, did not mention Camel until the priority of selling nonproducing properties changed. The Chief Administrative Officer of Exide, who among other duties was working on nonproducing properties including Bristol, knew of the Camel interest when she was asked to provide information on Bristol to send to Camel. It is not clear why she never asked any follow-up questions or mentioned the opportunity to a Board member. Similarly the Vice President of Marketing, also present at the Camel meetings, testified at hearing that he thought the opportunity should have been pursued, but never took steps to determine where development of the opportunity stood.

Claimant took no steps to hide facts related to Camel and he did not gain personally by not pressing the Camel issue. However, even if the facts and circumstances relied upon by Exide at hearing are deemed after acquired evidence and admissible for consideration, Claimant's conduct does not constitute gross negligence under Delaware law.

The lesson derived from the cases relied upon by Exide is that in order for actions to be considered grossly negligent, they must demonstrate "reckless indifference to or a deliberate disregard of the whole body of stockholders, or actions which are without the bounds of reason." *McPadden v. Sidhu,* 964 A. 2d 1262, 1274 (Del. Ch. 2008) When viewed in light of facts existing at the time of the Camel meetings, and the facts that were unknowable at that time, Claimant's

course of conduct between May 31 and September 2018 did not satisfy these stringent requirements.

The evidence in this case established the following. The Bristol plant was closed in 2013. Camel, as well as other battery manufacturers were likely aware of the closure, but no potential purchaser had shown interest in acquiring it. It was by April 2018 incapable of manufacturing lead acid batteries due to lack of equipment. While formation of batteries was possible there (adding acid, charging, and shipping), that is a use that Camel proposed and Exide has rejected.

The real purpose of the initial meeting with Camel was not known beforehand. Becker described the meeting as a "little bit of a dance," and was unsure what Camel's motivation was or what it really wanted. Claimant understood the Camel representatives to state their desire to obtain an unspecified amount of manufacturing capacity in the U.S. or Mexico, with a limited initial financial investment. He also knew that Exide at that time had no additional capacity, and so raised the prospect of an outright acquisition of Bristol, in which Camel professed interest. Claimant reasonably expected any transaction with Camel to take longer than FY 2019, and thus not among his current priorities.

The cost of getting Bristol capable of manufacturing again, was earlier estimated by Exide to be approximately $240 million, hardly a limited initial investment. The break-even point for a facility like Bristol is 7 million batteries annually. As an entrant to the US market, Camel was unlikely to have a need for that great a capacity, especially considering that the Original Equipment battery market, Camel's primary niche, is only 16 million batteries. The precise manner in which Camel hoped to enter the US market was, and remains, unknown. Although Exide proffered speculative testimony regarding the possibilities of a Camel

transaction, Camel's ultimate goal remains a mystery. No Camel witness was called by Exide.

Claimant was concerned about helping a competitor enter the U.S. market. While Exide is primarily an aftermarket manufacturer and Camel an original equipment manufacturer, Camel had, and presumably still has, an interest in the lead acid battery aftermarket, an interest Exide would have to exclude for a Camel deal to make business sense. Camel made it clear that it would want to control any potential joint venture. Just months before the initial Camel meetings, the Exide Board had voted to reject a Chinese joint venture and delay for several years further consideration.

Camel's acquisition of Exide was also raised by Claimant in the meeting , although not mentioned in the notes made by the VP of Marketing. Claimant was aware however that potential purchasers had previously backed away because of Exide's poor profitability and cash flow. Claimant reasonably assumed that there would be no purchase likely until profits improved, which he viewed as taking several years.

The priorities Claimant was charged with for FY 2019 related to improving profitability, not to disposing of nonproducing properties. Indeed, the plan related to disposing of those properties was only reviewed by the Board on an annual basis. Although Exide has now engaged a firm to market all its nonproducing properties, it had not done so during Claimant's tenure. Claimant judged the matters his teams were working on to be more beneficial to improving profitability than the possibility of some form of deal with Camel, which he recognized would not materialize in FY 2019.

Camel never sent its financial information, despite the executed non-disclosure agreement, never communicated with Claimant directly, and failed to respond to a voicemail Claimant left. This suggests that Camel felt little urgency with respect to a potential transaction. With all these factors at play, it cannot be said that Claimant's failure to inform the Board and to actively pursue some opportunity with Camel from May 31, 2018 until September, 2018, when the decision was made to fire him, was reckless indifference, deliberate disregard, or without the bounds of reason. Claimant was not grossly negligent as defined by Delaware law.

The lack of harm to Exide is also reason that a finding of in favor of Exide is improper. In *A&J Capital, Inc. v. Law Office of Krug*, 2019 WL 367176 (Del. Ch. 2019), the argument was advanced that if a manager's conduct was grossly negligent, he could be removed "even if that conduct was not undertaken for a purpose of causing harm, or did not cause harm to the Company…." This argument is essentially the same as made here by Exide, and was rejected by the Chancellor, who held that "contractually imposed standards of conduct necessarily incorporate an appreciation that the proscribed conduct must either be harmful or cause harm to justify removal." *Id. at *12* Exide cites no authority to support such an argument, and the reasoning of the Chancery Court is persuasive and will be applied here.

For all the foregoing reasons, Exide was not entitled to "reclassify" Claimant's termination as "for cause" and it cannot avoid its liability under Claimant's contract for severance due for a "without cause" termination.

The evidence reflected that following Claimant's termination, Exide's General Counsel and counsel for Claimant negotiated the terms of a separation

agreement based on the "without cause" terms of Claimant's employment agreement. That negotiated agreement provided for Claimant to receive the payment of monies and stock in Exide. The precise terms agreed upon are contained in Ex. A to this Award. Claimant now asks for an award that requires Exide to pay him the value of the stock, despite there being no requirement that Exide purchase the stock, in either the employment agreement or the separation agreement that was negotiated. Claimant has offered no authority to support making a stock grant a monetary award, and that aspect of Claimant's prayer for relief is denied.

Claimant has also asked for an award of fees and expenses based on Georgia law and Delaware law. Given that the contract governing this proceeding requires application of Delaware law in the construction and enforcement of the employment contract, application of the Georgia law cited by Claimant would be inappropriate. Additionally, it appears from the cases that Delaware law only allows for attorney fees and expenses of litigation in cases sounding in equity, *Scion Breckenridge Managing Member, LLC v. ASB Allegiance Real Estate Fund,* 68 A.3d 665, 687 (Del. 2013), and would not be available in this contract action. Accordingly, Claimant's prayer for fees and expenses is denied.

Claimant is awarded the cash and stock specified in paragraph 2 of Exhibit A to this Award, including the value of the COBRA benefits. Claimant is awarded the benefits specified in paragraph 3 of Exhibit A to this award. Additionally, Claimant is awarded $40,572.91 salary for the period Dec. 15-31, 2018, which was promised and never paid.

Under Delaware law, Claimant is entitled as a matter of right to prejudgment interest on contract damages at the legal rate specified in Del. C. §2301.

Brandywine Smyrna, Inc. v. Millennium Builders, LLC, 34 A. 3d 482 (Del. 2011); *Summa Corporation v. Trans World Airlines, Inc.,* 540 A. 2d 403 (Del. 1988). Taking judicial notice of the Federal Reserve discount rate, the legal rate of interest in Delaware is 7.25%. Claimant is awarded the sum of $244,215.31 prejudgment interest for the period beginning Feb. 12, 2019, when payment terms were agreed upon, and ending on the date hereof.

Finally, JAMS Comprehensive Rule 24(f) allows me to allocate arbitration fees and arbitrator compensation. The evidence in this case compels the conclusion that Exide's "re-classification" of Claimant's termination was contrived, predicated by a liquidity crisis. The attendance of two owner/creditors at the "re-classification" board meeting suggests that the creditors were applying some pressure as well. During the course of this proceeding, Exide has been uncooperative in the discovery process. The original Hearing date had to be moved due to the unavailability of an Exide witness. Exide discharged its counsel two weeks before the re-scheduled Hearing was to begin, obtained a continuance, and then tried to expand the scope of the Hearing beyond what had been previously agreed. At Hearing Exide proffered a witness that was not properly identified in advance, and whose testimony was generally irrelevant and speculative. Exide caused Claimant unnecessary trouble and expense, and viewed this process as a relatively low risk gamble. Claimant is awarded reimbursement by Exide for all his arbitration fees and arbitrator compensation.

This Award disposes of all issues submitted for decision. Done this 7th day of Jan., 2020.

F. Carlton King Jr.

F. Carlton King Jr., Arbitrator

SERVICE LIST

Case Name: Koelsch, Victor vs. Exide Technologies
Reference #: 1440006167
Panelist: King, Jr., F. Carlton,

Hear Type: Arbitration
Case Type: Employment

Krevolin & Horst, LLC

Jeffrey D. Horst
1201 W Peachtree St, NW
Suite 3250
Atlanta, GA 30309
horst@khlawfirm.com

Claimant
Phone: 404-888-9700
Fax: 404-888-9577

Party Represented:
Victor M. Koelsch

Ichter Davis, LLC

Cary Ichter
3340 Peachtree St., NE
Suite 1530
Atlanta, GA 303026
CIchter@IchterDavis.com

Respondent
Phone: 404-869-7600
Fax: 404-869-7610

Party Represented:
Exide Technologies

PROOF OF SERVICE BY E-Mail

Re: Koelsch, Victor vs. Exide Technologies
Reference No. 1440006167

I, Ankur Haldar, not a party to the within action, hereby declare that on February 7, 2020, I served the attached FINAL AWARD on the parties in the within action by electronic mail at Atlanta, GEORGIA, addressed as follows:

Jeffrey D. Horst Esq.
Krevolin & Horst, LLC
1201 W Peachtree St, NW
Suite 3250
Atlanta, GA 30309
Phone: 404-888-9700
horst@khlawfirm.com
Parties Represented:
Victor M. Koelsch

Cary Ichter Esq.
Ichter Davis, LLC
3340 Peachtree St., NE
Suite 1530
Atlanta, GA 303026
Phone: 404-869-7600
CIchter@IchterDavis.com
Parties Represented:
Exide Technologies

I declare under penalty of perjury the foregoing to be true and correct. Executed at Atlanta, GEORGIA on February 7, 2020.

Ankur Haldar
JAMS
ahaldar@jamsadr.com

EXHIBIT

A

EXIDE EDITS 02/12/19
PRIVILEGED AND CONFIDENTIAL

SEPARATION AGREEMENT AND RELEASE

This Separation Agreement and Release ("Separation Agreement") is entered into by and between Victor M. Koelsch ("Executive" or "you") and EXIDE Technologies ("EXIDE"), and confirms the agreement that has been reached with you in connection with your separation from EXIDE and its direct and indirect subsidiaries and together with EXIDE and the other direct and indirect subsidiaries of EXIDE, (the "Company").

1. Termination of Employment. You acknowledge that your employment relationship with the Company will be terminated effective as of November 13, 2018 (the "Separation Date"), that as of the Separation Date you will cease to be employed by the Company in any capacity and that as of the Separation Date your separation will become effective from all positions you then hold with the Company, including without limitation as a member of the board of directors of any of EXIDE's direct and indirect subsidiaries. You further agree to execute promptly upon request by the Company any additional documents necessary to effectuate the provisions of this paragraph 1.

2. Separation Pay and Benefits. In consideration of your execution of this Separation Agreement and your compliance with its terms and conditions, and provided this Separation Agreement shall have become effective as provided in paragraph 11(d), the Company agrees to pay or provide you (subject to the terms and conditions set forth in this Separation Agreement) with the payments and benefits described in this paragraph 2.

a. Following the date this Separation Agreement shall have become effective as provided in paragraph 11(d), EXIDE shall pay you, net of applicable withholdings, an aggregate amount of $3,732,707.32 (representing the sum of (i) $81,145.82, the amount of base salary that would have been paid to you for an additional thirty (30) days following the Separation Date had your employment continued during that period, such payment being in lieu of any notice of termination requirements set forth in the Employment Agreement between you and EXIDE dated as of May 11, 2015 (the "Employment Agreement") and having been paid and satisfied as of December 15, 2018, (ii) $3,651,561.90, representing 150% of the sum of (1) your current base salary, plus (2) your target incentive award under EXIDE's annual incentive plan ("AIP") which, for the fiscal year ending March 31, 2019, equals 150% of your current base salary) in the first payroll period in January 2019. Additionally, you will receive $44,940.48, represented twelve (12) days of unused vacation.

b. You shall be provided with Company-paid health coverage for yourself and any qualifying dependents under the Company's group health plan in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") from the Separation Date until the earlier of (i) the expiration of twelve (12) calendar months following the Separation Date, (ii) the time you are no longer eligible for such coverage, or (iii) the date you become eligible for group health insurance coverage from another source; provided that you shall promptly notify EXIDE on any such

circumstances. Following the end of such period, you may elect to continue coverage under the Company's group health plan for the remaining COBRA period at your own cost.

c. Pursuant to Section 5(g)(i) of the Employment Agreement, the Amended and Restated Restricted Stock Unit Award Agreement between you and EXIDE originally effective June 22, 2015 and as subsequently amended and restated effective December 3, 2015 (the "2015 RSU Agreement"), and the Exide Technologies 2015 Stock Incentive Plan (the "2015 Plan"), you were granted Restricted Stock Units representing a number of shares of common stock of EXIDE ("Common Stock") equal to three percent (3%) of EXIDE's fully diluted Common Stock as determined in accordance with, and as subsequently adjusted pursuant to, Section 5(g)(i) of the Employment Agreement (the "2015 RSU"). You hereby acknowledge that, in full satisfaction of the Company's obligations under Section 5(g)(i) of the Employment Agreement (and, to the extent it references such obligations, Section 8 of the Employment Agreement): (x) on or before January 13, 2019, but in no event before January 1, 2019, EXIDE will deliver to you 361,530 shares of Common Stock, net of such number of shares of Common Stock having a fair market value (as determined by the Company in its sole discretion) equal to the minimum amount required to be withheld for federal, state and local tax purposes (the net shares of Common Stock so delivered, the "Initial 2015 RSU Shares"), provided that effective as of the date of such delivery you shall have executed the Stockholder's Agreement of the Company dated April 30, 2015, as it may be amended from time to time (the "Stockholder's Agreement"); and (y) if the 7% Second Lien Senior Secured Notes issued by EXIDE as of April 30, 2015 ("2015 Second Lien Notes") and the 7.25% Second Lien Senior Secured Notes issued as of May 2017 ("2017 Second Lien Notes") shall have converted in their entirety into Common Stock as of a date you continue to hold any Initial 2015 RSU Shares, EXIDE will deliver to you, not more than thirty (30) days thereafter and subject to required tax withholdings, such number of shares of Common Stock so that such additional shares plus 361,530 (net of the minimum amount required to be withheld for federal, state and local taxes) equals that proportion of three percent (3%) of EXIDE's then issued and outstanding Common Stock (including any PIK interest applicable to the 2015 Second Lien Notes and 2017 Second Lien Notes), but determined without regard to any additional debt instruments convertible into Common Stock, or any other Common Stock issued after the Separation Date as the number of Initial 2015 RSU Shares that you then still hold bears to the number of Initial 2015 RSU Shares on the date of their delivery to you. Any shares of Common Stock received under this paragraph will be subject to all rights and restrictions as provided in the 2015 RSU Agreement, the 2015 Plan and the Stockholder's Agreement.

d. As of the Separation Date, you shall be deemed vested in those 303,294 Restricted Stock Units (the "2019 RSUs") granted to you pursuant to the Restricted Stock Unit Award Agreement between you and EXIDE dated September 1, 2018 (the "2019 RSU Agreement"). As provided in the 2019 RSU Agreement, the 303,294 shares of Common Stock, [net of applicable tax withholdings if you elect satisfy such withholding by having EXIDE withhold such number of shares of Common Stock

having a fair market value equal to the amount required to be withheld,[1]] will be delivered to you within ninety (90) days following the Separation Date. Any shares of Common Stock received under this paragraph will be subject to all rights and restrictions as provided in the 2019 RSU Agreement, the 2015 Plan and the Stockholder's Agreement.

e. Pursuant to the Performance Restricted Stock Unit Award Agreement between you and EXIDE dated September 1, 2018 (the "PRSU Agreement") you received a grant of 606,588 performance-based Restricted Stock Units (the "PRSUs"). As provided in the PRSU Agreement, for purposes of the continued service requirement you shall be deemed to have vested pro-rata in the PRSUs as of the Separation Date, subject to the achievement of the performance goals as determined and certified by the board of directors of the Company (the "Board") in its sole discretion following the end of the March 31, 2021 performance period. If, for example, following the end of the performance period, the Board determines the performance goals have been achieved at target levels, you will be eligible to receive approximately 47,600 shares of Common Stock at such time. However, the exact amount of shares you will receive, if any, as a result of the pro-rata vesting will not be determined until the performance goals are measured following March 31, 2021. Once the amount of shares you will receive is determined, such shares will be delivered to you within ninety (90) days, net of applicable tax withholdings if you elect satisfy such withholding by having EXIDE withhold such number of shares of Common Stock having a fair market value equal to the amount required to be withheld.

3. Accrued Benefits.

a. EXIDE will pay you (i) your base salary through the Separation Date, (ii) the value of any vacation days accrued but unused as of the Separation Date in the first payroll period in December 2018 and (iii) for unreimbursed business expenses (in accordance with usual Company policies and practices), in each case to the extent not heretofore paid and in any event net of applicable withholdings.

b. Following the Separation Date, you will be entitled to receive vested amounts payable to you under the Company's 401(k) plan in accordance with the terms of such plan and applicable law.

4. Certain Continuing Obligations. You acknowledge and agree that the provisions of Sections 9(c), 9(d) and 9(e) of the Employment Agreement (which are hereby incorporated herein by reference) shall continue in effect in accordance with their terms for two (2) years following the Separation Date, provided however that the term "Competitive Business" as used in the Employment Agreement is hereby amended by deleting the definition in the Employment Agreement in its entirety and in lieu thereof adding: "Competitive Business" means: (a) The following manufacturers of lead-acid batteries for the transportation and industrial market segments where Exide currently competes): Johnson Controls (including new ownership), East Penn, EnerSys, C&D, Crown, Banner, Yuasa, Tab, Midac, FIAMM, Hoppecke; (b) the current manufacturers and distributors of Motive Power LiOn (current generation chemistry utilized in current

[1] Note to Draft: Withholding language subject to adjustment if settled in cash.

Sonnenschein and GNB LiftForce products) batteries for Type I, II and III lift trucks and AGV's; (c) current national lead-acid battery distributors: Interstate, Battery Systems, Inc., Continental Battery, Energy Battery Group, and (d) current lead acid battery recyclers: RSR Quemetco, Ecobat, Doe Run, Gopher industries. You also acknowledge and agree that, to the extent applicable, you will remain subject to the Stockholder's Agreement. Other than as set forth in this Separation Agreement, after the Separation Date, you shall not receive any base salary, annual bonus, long term incentive award, welfare, retirement, perquisite, fringe benefit, or other benefit plan coverage or coverage under any other practice, policy or program as may be in effect from time to time, applying to senior officers or other employees of the Company. The Company acknowledges and agrees that you remain covered under that certain indemnification agreement between you and the Company dated June 22, 2015 (the "Indemnification Agreement").

5. No Other Payments or Benefits. You acknowledge and agree that, other than the payments and benefits expressly set forth in this Separation Agreement, you have received all compensation to which you are entitled from the Company, and you are not entitled to any other payments or benefits from the Company.

6. Nondisparagement.

a. You agree that you will not, with intent to damage, disparage or encourage or induce others to disparage the Company and its current directors and officers and each of their successors and assigns.

b. The Company agrees that it shall not (and similarly direct its executive officers), with intent to damage, disparage or encourage or induce others to disparage you.

c. The Company agrees, upon inquiry, to provide a reference for future employment that confirms title and dates of employment .

d. Nothing in this Separation Agreement is intended to limit or shall prevent either party from providing testimony in response to a valid subpoena, court order, regulatory request or other judicial, administrative or legal process or otherwise as required by law. Executive shall notify EXIDE in writing as promptly as practicable after receiving any request for testimony or information in response to a valid subpoena, court order, regulatory request or other judicial, administrative or legal process or otherwise as required by law, regarding the anticipated testimony or information to be provided and at least ten (10) days prior to providing such testimony or information (or, if such notice is not possible under the circumstances, with as much prior notice as is possible).

7. Cooperation. Prior to and after the Separation Date, Executive shall reasonably cooperate with EXIDE and its direct or indirect subsidiaries and affiliates and any of their officers, directors, shareholders, or employees: (i) concerning requests for information about the business of EXIDE or its direct or indirect subsidiaries or affiliates or Executive's involvement and participation therein, (ii) in connection

with any investigation or review by any federal, state or local regulatory, quasi-regulatory or self-governing authority to the extent any such investigation or review relates to events or occurrences that transpired while Executive was employed with the Company and (iii) with respect to transition and succession matters. Executive's cooperation shall include, but not be limited to (taking into account Executive's obligations to any new employer or entity to which he provides services), being available to meet and speak with officers or employees of the Company and/or the Company's counsel at reasonable times and locations, executing accurate and truthful documents and taking such other actions as may reasonably be requested by the Company and/or the Company's counsel to effectuate the foregoing. Executive shall be entitled to reimbursement, upon receipt by the Company of suitable documentation, for reasonable and necessary travel and other expenses which Executive may incur at the specific request of the Company and as approved by the Company in advance and in accordance with its policies and procedures established from time to time.

8. Confidentiality; Company Property. Without limiting Sections 9(a) and 9(b) of the Employment Agreement, you agree that you shall not, without the prior written consent of the Company, disclose to any entity or person any information which is treated as confidential by the Company or any of its direct or indirect subsidiaries or affiliates, and is not generally known or available to the public, provided, that you may make disclosures of such confidential information to the extent required by law or legal process. You acknowledge and agree that you have returned to the Company all Company property in your possession or use, including without limitation all automobiles, computers, laptops, fax machines, printers, cell phones, credit cards, building-access cards and keys, other electronic equipment, and any records, software or other data from your personal computers or laptops which are not themselves Company property, however stored, relating to confidential information, as discussed above. You recognize that irreparable injury would be caused to the Company, not adequately compensable by money damages, by your violation of the provisions of this paragraph. You further agree that in the event of any such violation or threatened violation of this confidentiality provision, in addition to such other rights and remedies as may exist in the Company's favor, the Company will be entitled to recover its attorneys' fees and costs in any action to enforce any provision of this paragraph, but only in the event the Company is the prevailing party in any such action, and if the Company is not the prevailing party then it shall pay or reimburse you for your attorneys' fees and costs incurred by you in defense of such action.

9. Permitted Disclosures.

a. Pursuant to 18 U.S.C. § 1833(b), Executive understands that he will not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret of the Company that (i) is made (A) in confidence to a Federal, State, or local government official, either directly or indirectly, or to his attorney and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. Executive understands that if he files a lawsuit for retaliation by the Company for reporting a suspected violation of law, he may disclose the trade secret to his attorney and use the trade secret information in the court proceeding if he (x) files any document containing the trade secret under seal, and (y) does not disclose the

trade secret, except pursuant to court order. Nothing in this Separation Agreement, or any other agreement that Executive has with the Company, is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by such section.

b. Notwithstanding anything herein to the contrary, nothing in this Separation Agreement, shall: (i) prohibit Executive from making reports of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or of any other whistleblower protection provisions of state or federal law or regulation; (ii) require notification or prior approval by the Company of any reporting described in clause (i), (iii) prohibit Executive from receiving any monetary award from the Securities and Exchange Commission pursuant to Section 21F of the Securities Exchange Act of 1934, (iv) prevent or prohibit Executive from participating, cooperating, or testifying in any charge, action, investigation, or proceeding with, or providing information to, any self-regulatory organization, governmental agency or legislative body, and/or pursuant to the Sarbanes-Oxley Act of 2002 or any other whistleblower protection provisions of state or federal law or regulation, or (v) prevent or prohibit Executive from filing, testifying, participating in or otherwise assisting in a proceeding relating to an alleged violation of any federal, state or municipal law relating to fraud, or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization.

10. Section 409A. The intent of the parties is that payments and benefits under this Separation Agreement comply with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and guidance promulgated thereunder ("Section 409A"), to the extent subject thereto, and accordingly, to the maximum extent permitted, this Separation Agreement shall be interpreted and administered to be in compliance therewith. Notwithstanding anything contained in this Separation Agreement to the contrary, Executive shall not be considered to have terminated employment with the Company for purposes of any payments under this Separation Agreement which are subject to Section 409A until Executive would be considered to have incurred a "separation from service" from the Company within the meaning of Section 409A. Each amount to be paid or benefit to be provided under this Separation Agreement shall be construed as a separate and distinct payment for purposes of Section 409A. Without limiting the foregoing and notwithstanding anything contained in this Separation Agreement to the contrary, to the extent required to avoid accelerated taxation and/or tax penalties under Section 409A, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to this Separation Agreement or any other arrangement between Executive and the Company during the six (6) month period immediately following Executive's separation from service shall instead be paid on the first business day after the date that is six (6) months following Executive's separation from service (or, if earlier, Executive's date of death). To the extent required to avoid taxation and/or tax penalties under Section 409A, amounts reimbursable to Executive under this Separation Agreement shall be paid to Executive on or before the last day of the year following the year in which the expense was incurred and the amount of expenses eligible for reimbursement (and in kind benefits provided to Executive) during one year may not affect amounts reimbursable or provided in any

subsequent year. The Company makes no representation that any or all of the payments described in this Separation Agreement will be exempt from or comply with Section 409A and makes no undertaking to preclude Section 409A from applying to any such payment. Executive understands and agrees that Executive shall be solely responsible for the payment of any taxes, penalties, interest or other expenses incurred by Executive on account of noncompliance with Section 409A.

11. Release.

a. You agree that, in consideration of the benefits to be provided to you under this Separation Agreement, you on behalf of your heirs, executors, administrators, successors and assigns, hereby irrevocably and unconditionally waive, release and forever discharge EXIDE and any of its direct and indirect subsidiaries or affiliated companies, and their respective successors and assigns, current and former owners, officers, agents, directors, partners, representatives, attorneys, and employees, various benefits committees, and their respective predecessors, successors and assigns, heirs, executors and personal and legal representatives (collectively, the "Company Releasees"), from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, causes of action, rights, costs, losses, debts and expenses of any nature whatsoever ("Claims"), known or unknown, which you or your heirs, executors, administrators, successors or assigns ever had, now have or hereafter can, will or may have (either directly, indirectly, derivatively or in any other representative capacity) by reason of any matter, fact or cause whatsoever against EXIDE or any of the other Company Releasees: (i) from the beginning of time to the date upon which you sign this Separation Agreement, (ii) arising out of, or relating to, your employment or services with the Company and the termination of such employment or services, and (iii) arising out of, or relating to, any agreement or policy between the you and any Company Releasee or otherwise covering you, including without limitation the Employment Agreement. This waiver and release includes, but is not limited to, any Claims which could be asserted now or in the future, under: common law, including, but not limited to, breach of express or implied duties, wrongful termination, defamation, or violation of public policy; any policies, practices, or procedures of the Company; any federal or state statutes or regulations, including without limitation the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*, the Civil Rights Act of 1866 and 1871, the Americans With Disabilities Act, 42 U.S.C. §12101 *et seq.*, the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §1001 *et seq.* (excluding those rights relating exclusively to employee pension benefits as governed by ERISA), the Family and Medical Leave Act, §2601 *et. seq.*, the Georgia laws, and any comparable state laws, any contract of employment, express or implied; any provision of any other law, common or statutory, of the United States, or any applicable state or municipality. Notwithstanding the foregoing, nothing contained in this paragraph 11(a) shall (i) be construed to prohibit Executive from bringing appropriate proceedings to enforce this Separation Agreement, including but not limited to compelling payments required under the terms of this Separation Agreement or under plans, programs, agreements or arrangements in which the Company has acknowledged herein that you have a future right to payment, including without limitation the delivery of the securities issuable pursuant to the 2015 RSU Agreement, the 2019 RSU Agreement, and the PRSU Agreement; (ii)

affect any rights of indemnification, or to be held harmless, or any coverage under directors and officers liability insurance or rights or claims of contribution that you have under the Indemnification Agreement or otherwise; or (iii) affect any rights as a stockholder of EXIDE that you have under the Stockholder's Agreement or otherwise.

b. Subject to the limitations in such paragraph, the releases in paragraph 11(a) are intended to have the broadest possible application and include, without limitation, all Claims relating (1) to any transactions (including without limitation any related party transactions involving Executive) or occurrences between the Executive and any member of the EXIDE Group through the time you sign this Separation Agreement and (2) Executive's employment with any member of the EXIDE Group and the termination of such employment. Executive expressly waives his right to recovery of any type, including damages or reinstatement, in any administrative or court action, whether state or federal, and whether brought by a party or on Executive's behalf, related in any way to the matters released or described in paragraph 11(a).

c. By signing this Separation Agreement, Executive represents that he has not and will not in the future commence any action or proceeding arising out of the matters released hereby, and that Executive will not seek or be entitled to any award of legal or equitable relief in any such action or proceeding that may be commenced on Executive's behalf. Nothing in the prior sentence precludes you from filing an employment discrimination charge with a state or federal agency, provided that you acknowledge and agree that you will not receive any personal recovery related to such charge. EXIDE has advised you to consult with an attorney of your choosing prior to signing this Separation Agreement. You represent that you understand and agree that you have the right and have been given the opportunity to review this Separation Agreement with an attorney. You also represent that you understand and agree that the execution and delivery of this Separation Agreement is a condition to receiving the benefits enumerated in Section 8(a) of the Employment Agreement, and that you are under no obligation to consent to the releases set forth in paragraph 11(a) of this Separation Agreement. You further represent that you have carefully read and fully understand all of the provisions of this Separation Agreement and you are entering into this Separation Agreement, including the releases set forth in paragraph 11(a), knowingly, freely and voluntarily in exchange for good and valuable consideration and you have the full power, capacity and authority to enter into this Separation Agreement.

d. You had at least twenty-one (21) calendar days from the date that this Separation Agreement was first presented to you on November 13, 2018 to consider its terms and to execute and deliver it to EXIDE. The parties acknowledge and agree that any changes to this Separation Agreement since it was first presented to you on November 13, 2018 did not restart this twenty-one (21) day consideration period. You will have seven (7) calendar days from the date on which you sign this Separation Agreement to revoke your consent to the terms of this Separation Agreement. Such revocation must be in writing and must be delivered by hand or overnight courier to EXIDE, Attention: Wendy Henderson, Senior Vice President—Human Resources at 13000 Deerfield Parkway Building 200 Milton, Georgia 30004. Notice of such revocation must be received no later than seven (7) calendar days after you sign and return this Separation Agreement to EXIDE. If no such revocation occurs, this Separation Agreement shall become effective on the eighth (8^{th}) calendar day

after the date on which you sign this Separation Agreement. In the event you revoke your consent to this Separation Agreement as permitted by this paragraph 11(d), this Separation Agreement will be null and void in its entirety, without prejudice to any rights of the parties.

12. Enforcement. If any provision of this Separation Agreement is held by a court of competent jurisdiction to be illegal, void or unenforceable, such provision shall have no effect; however, the remaining provisions shall be enforced to the maximum extent possible. Further, if a court should determine that any portion of this Separation Agreement is overbroad or unreasonable, such provision shall be given effect to the maximum extent possible by narrowing or enforcing in part that aspect of the provision found overbroad or unreasonable. In addition, the Company Releasees shall be entitled, in addition to any other right or remedy, to injunctive relief enjoining or restraining you from any violation of paragraphs 4, 6 and 8 of this Separation Agreement.

13. No Admission. This Separation Agreement is not intended, and shall not be construed, as an admission that the Company Releasees have violated any federal, state or local law (statutory or decisional) or ordinance or regulation or breached any contract or committed any wrong whatsoever.

14. Successor. This Separation Agreement is binding upon, and shall inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and assigns.

15. Choice of Law. This Separation Agreement shall be construed and enforced in accordance with the laws of the State of Georgia without regard to the principles of conflicts of law. You and EXIDE consent to the exclusive jurisdiction and venue in the federal and state courts of the State of Georgia for the resolution of all disputes arising under, or relating to, this Separation Agreement.

16. Entire Agreement. You acknowledge and agree that this Separation Agreement, the Indemnification Agreement and the Stockholder's Agreement, constitute the complete understanding between the Company and you and supersede any and all agreements, understandings, and discussions, whether written or oral, between you and any of the Company Releasees, including without limitation the Employment Agreement (except to the extent otherwise expressly incorporated herein as provided in the first sentence of paragraph 4) and, to the extent provided in paragraph 2(c) of this Separation Agreement, the 2015 RSU Agreement, and that effective as of the Separation Date, the Employment Agreement (except to the extent otherwise expressly incorporated herein as provided in the first sentence of paragraph 4) and, to the extent provided in paragraph 2(c) of this Separation Agreement, the 2015 RSU Agreement, shall be of no further force or effect. No other promises or agreements shall be binding on the Company unless in writing and signed by both EXIDE and you after the date of this Separation Agreement.

17. Headings. The headings used herein are for the convenience of reference only, do not constitute part of this Separation Agreement and shall not be deemed to limit or otherwise affect any of the provisions of this Separation Agreement.

18. Counterparts. This Separation Agreement may be executed in one or more counterparts, including emailed or telecopied facsimiles, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Executive and EXIDE Technologies have executed this Separation Agreement as of the respective dates set forth below.

Signature: _____ Date: _____
Victor M. Koelsch

EXIDE TECHNOLOGIES

By: Date: November 13, 2018

Title: _____