

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
)	
Oldco M Corporation)	Case No. 09-13412 (MG)
(f/k/a Metaldyne Corporation), <u>et al.</u> ,)	
)	
Debtors.)	Jointly Administered
)	

**STIPULATION AND CONSENT ORDER BY AND BETWEEN
THE DEBTORS, GATX CORP. AND MD INVESTORS**

THIS Stipulation and Consent Order (the "Stipulation and Consent Order") is made and entered into as of November 6, 2009, by and between the above captioned debtors and debtors-in-possession (the "Debtors"), GATX Corp., successor by merger to GATX Financial Corp., ("GATX") and MD Investors Corporation ("MD Investors," together with the Debtors and GATX, the "Parties"), acting by and through their respective duly authorized undersigned attorneys.

WHEREAS, on or about May 27, 2009 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101-1532 (the "Bankruptcy Code"). Since filing their petitions for relief, the Debtors have continued to operate their businesses and have maintained possession of their assets as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtors' cases have been consolidated for administrative purposes only;

WHEREAS, on or about June 15, 2009, the Debtors filed a motion (Docket No. 214) for, among other things, the entry of an order authorizing and approving the sale of substantially all of the assets related to the Debtors' powertrain business group and authorizing

the assumption and assignment of certain executory contracts and unexpired leases of the Debtors in connection therewith (the "Powertrain Sale Motion");

WHEREAS, on or about June 25, 2009, the Debtors filed a motion (Docket No. 323), for, among other things, the entry of an order authorizing and approving the sale of substantially all of the assets related to the Debtors' chassis business group and authorizing the assumption and assignment of certain executory contracts and unexpired leases of the Debtors in connection therewith (the "Chassis Sale Motion", and together with the Powertrain Sale Motion, the "Sale Motions");

WHEREAS, GATX and the Debtors are parties to two Master Equipment Lease Agreements (the "Master Leases") dated July 11, 2002 and December 30, 2004, respectively, pursuant to which, among other things, GATX leases various units of equipment used by the Debtors in their powertrain business;

WHEREAS, GATX filed the *Objection of GATX Corp. to Notice of Filing of Contract and Cure Schedule of Certain Contracts and Unexpired Leases to be Assumed and Assigned* (Docket No. 458) and the *Objection of GATX Corp. to Assumption and Assignment of Unexpired Lease Agreement in Connection with the Sale of the Debtors' Assets to be Assumed and Assigned* (Docket No. 695) (together, the "GATX Objections") pursuant to which GATX raised certain objections to the relief requested in the Sale Motions;

WHEREAS, the Court approved the Sale Motions and the Asset Purchase Agreement, dated as of August 7, 2009 (the "Agreement")¹, by and between MD Investors and Metaldyne Corporation ("Metaldyne"), pursuant to that certain *Order (I) Authorizing the Sale of*

¹ Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Sale Motions or in the Agreement, as indicated by the context.

Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Leases in Connection Therewith and (III) Granting Related Relief (Docket No. 674) (the "Sale Order");

WHEREAS, the Closing of the transaction contemplated by the Agreement occurred on October 16, 2009 (the "Closing");

WHEREAS, the Debtors, GATX and MD Investors have negotiated and resolved the GATX Objections.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby stipulate and agree as follows:

1. The recitals set forth herein are hereby incorporated by reference.
2. Pursuant to sections 363 and 365 of the Bankruptcy Code and paragraphs 17 through 24 of the Sale Order, and subject to and conditioned upon the payment and receipt by GATX of the cure amounts listed herein, the assumption by the Debtors and assignment to MD Investors of the following unexpired equipment leases (collectively, the "GATX Leases") is approved effective as of the Closing:

- Schedule No. 5 between GATX and Metaldyne Company LLC, dated as of April 21, 2005, to the Master Lease Agreement between General Electric Capital Corporation and Metaldyne Company LLC, dated as of December 30, 2004 (as assigned to GATX), with a cure amount of \$182,546.81 (the "Schedule No. 5 Cure Amount"); and
- Schedule No. 9 between Key Equipment Finance and Metaldyne Corporation, dated as of September 26, 2005, to the Master Equipment Lease Agreement, dated as of July 11, 2002, between Key Equipment Finance and Metaldyne Corporation (as assigned to GATX), with a cure amount of \$145,882.28 (the "Schedule No. 9 Cure Amount," together with the Schedule No. 5 Cure Amount, the "Cure Amounts").

3. Payment of the Cure Amounts in full shall be made by MD Investors to GATX within five (5) business days of the entry of an order approving this Stipulation and Consent Order by the Bankruptcy Court and such payment shall be in full satisfaction of any and all defaults under the GATX Leases, whether monetary or non-monetary.

4. Upon the entry of an order approving this Stipulation and Consent Order by the Bankruptcy Court and upon the receipt by GATX of the Cure Amounts in good and immediately available funds, GATX is forever barred, estopped and permanently enjoined from asserting against the Debtors or MD Investors, its successors or assigns or the property of any of them, any default existing as of the date hereof if such default was not raised or asserted prior to the date hereof, other than defaults arising under this Stipulation and Consent Order.

5. In the event that the Debtors, the unsecured creditors committee or any other party asserts any claim, avoidance action, or cause of action that the Debtors have, had or may have against GATX, GATX reserves the right to assert any and all defenses to such claim or action and, notwithstanding anything contained herein, to assert a cure claim for any amounts that are recovered pursuant to an avoidance action.

6. In consideration for the assumption and assignment of the GATX Leases to MD Investors, upon the entry of an order approving this Stipulation and Consent Order by the Bankruptcy Court and upon the receipt by GATX of the Cure Amounts in good and immediately available funds, GATX shall release that certain Irrevocable Standby Letter of Credit No. P-624959, dated as of April 20, 2005 and issued by JPMorgan Chase Bank, N.A. Effective as of the entry of an order approving this Stipulation and Consent Order and the receipt by GATX of the Cure Amounts in good and immediately available funds, the GATX Leases are amended to reflect the release of Irrevocable Standby Letter of Credit No. P-624959 and to reflect that no

form of security deposit, whether by letter of credit or otherwise, shall be required by GATX with respect to the GATX Leases.

7. Upon the entry of an order approving this Stipulation and Consent Order by the Bankruptcy Court and upon the receipt by GATX of the Cure Amounts in good and immediately available funds, the GATX Objections are hereby deemed withdrawn and GATX shall withdraw any proofs of claim filed against any of the Debtors.

8. MD Investors has demonstrated adequate assurance of future performance with respect to the GATX Leases and has satisfied the requirements of the Bankruptcy Code including, without limitation, sections 365(b)(1) and (3) and 365(f)(2)(B).

9. MD Investors, GATX and the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Stipulation and Consent Order.

10. This Stipulation and Consent Order shall not be effective unless and until it is approved by an order of the Court. Once so approved, it shall be binding upon and shall inure to the benefit of the successors, heirs, assigns, agents, employees and representatives of the Parties hereto and is not intended to benefit any other person or entity. The terms and conditions of this Stipulation and Consent Order shall be immediately effective and enforceable upon its entry. If the Cure Amounts are not received by GATX as provided for herein, this Stipulation and Consent Order and the terms hereof shall be of no force and effect and shall be deemed null and void.

11. The Parties hereto represent and warrant to each other that they are authorized to execute this Stipulation and Consent Order, that each has full power and authority to enter into and perform in accordance with the terms of this Stipulation and Consent Order, and that this Stipulation and Consent Order is duly executed and delivered and, subject to

Bankruptcy Court approval, constitutes a valid and binding agreement in accordance with its terms.

12. This Stipulation and Consent Order may be executed in counterparts and each such counterpart together with the others shall constitute one and the same instrument. The Parties further agree that facsimile signatures hereon shall be deemed to be original signatures.

13. The Bankruptcy Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Consent Order.

AGREED TO BY:

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SO ORDERED this 13th day of November, 2009
New York, New York

/s/ Martin Glenn
The Honorable Martin Glenn
United States Bankruptcy Judge