

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	)	
	)	Chapter 11
	)	
WELDED CONSTRUCTION, L.P., <i>et al.</i> , <sup>1</sup>	)	Case No. 18-12378 (CSS)
	)	
	)	(Jointly Administered)
Debtors.	)	
	)	<b>Ref. Docket No. 1363 &amp; 1504</b>

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER CONFIRMING  
THE AMENDED CHAPTER 11 PLAN OF WELDED CONTRUCTION, L.P.  
AND WELDED CONSTRUCTION MICHIGAN, LLC**

Upon consideration of the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, attached hereto as Exhibit A (together with the Plan Settlement all other exhibits thereto, and as may be amended, modified or supplemented, the “**Plan**”), proposed by the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”); and the Bankruptcy Court having approved the *Disclosure Statement for the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, attached as Exhibit 1 to the Disclosure Statement Order (the “**Disclosure Statement**”); and the Debtors having filed the Plan Supplement on June 5, 2020 [Docket No. 1424]; and upon consideration of the affidavits of service filed reflecting compliance with the notice and solicitation requirements of the Disclosure Statement Order [Docket Nos. 1392, 1394, and 1398] (the “**Notice Affidavits**”); and upon the *Notice of Order (I) Approving the Disclosure Statement, (II) Approving Solicitation and Voting Procedures, Including (A) Fixing the Record Date, (B) Approving the Solicitation Packages and Procedures for Distribution, (C) Approving the Form of Ballots and Establishing*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.



*Procedures for Voting, and (D) Approving Procedures for Vote Tabulation; (III) Scheduling a Confirmation Hearing and Establishing Notice and Objection Procedures; and (IV) Granting Related Relief* [Docket No. 1365] (the “**Confirmation Hearing Notice**”); and upon consideration of the *Certification of Andrew W. Henchen with Respect to the Tabulation of Votes on the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* [Docket No. 1477], filed with the Bankruptcy Court on June 22, 2020 (the “**Voting Declaration**”); and upon consideration of the *Declaration of Frank Pometti in Support of Confirmation of the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* [Docket No. 1478], filed with the Bankruptcy Court on June 22, 2020 (the “**Pometti Declaration**”); and upon consideration of the *Memorandum of Law in Support of Confirmation of the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* [Docket No. 1479], filed with the Bankruptcy Court on June 22, 2020 (the “**Confirmation Memorandum**”); and any objections to the Plan having been resolved and/or overruled by the Bankruptcy Court pursuant to this Confirmation Order; and a hearing to consider Confirmation having been held on June 24, 2020 (the “**Confirmation Hearing**”); and upon the evidence adduced and proffered and the arguments of counsel made at the Confirmation Hearing; and the Bankruptcy Court having reviewed all documents in connection with Confirmation and having heard all parties desiring to be heard; and upon the record of the Chapter 11 Cases; and after due deliberation and consideration of all of the foregoing; and sufficient cause appearing therefor; the Bankruptcy Court hereby makes the following:

**Findings of Fact and Conclusions of Law**

A. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record of the

Confirmation Hearing, constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to these proceedings pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.

C. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Bankruptcy Court may enter a final order consistent with Article III of the United States Constitution, and the Debtors consent to entry of this Confirmation Order under the Local Rules and Article III of the United States Constitution. Venue of these proceedings and the Chapter 11 Cases is proper in this district and in this Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. **Chapter 11 Petitions.** On October 22, 2018 (the "**Petition Date**"), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors continue to manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On October 30, 2018, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") appointed the Official Committee of Unsecured

Creditors (the “**Committee**”). No request has been made for the appointment of a trustee or an examiner.

E. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in the Chapter 11 Cases maintained by the Clerk of the Bankruptcy Court and/or its duly appointed agent, including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during the Chapter 11 Cases, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing.

F. **Plan Supplement.** Prior to the Confirmation Hearing, the Debtors filed the Plan Supplement. The Plan Supplement complies with the terms of the Plan, and the filing and notice of the Plan Supplement was appropriate and complied with the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice is or shall be required. The Debtors are authorized to modify the Plan Supplement documents following entry of this Confirmation Order in a manner consistent with this Confirmation Order and the Plan.

G. **Mailing of Solicitation and Confirmation Materials.** As is evidenced by the Voting Declaration and the Notice Affidavits, the transmittal and service of the Plan, the Disclosure Statement, the Ballots, the Confirmation Hearing Notice and the notice of non-voting status were adequate and sufficient under the circumstances, and all parties required to be given notice of the Plan and the Confirmation Hearing (including the deadline for filing and serving objections to Confirmation of the Plan) have been given due, proper, timely, and adequate notice thereof in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties

have had an opportunity to appear and be heard with respect thereto. Except as otherwise provided herein, no other or further notice of the Plan and the Confirmation Hearing is required.

H. **Voting.** Votes on the Plan were solicited after disclosure of adequate information as defined in section 1125 of the Bankruptcy Code. The procedures by which the Ballots for acceptance or rejection of the Plan were distributed and tabulated, including as set forth in the Voting Declaration, under the circumstances of the Chapter 11 Cases were fair, properly conducted, and complied with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, applicable non-bankruptcy law and the Disclosure Statement Order. As more fully set forth in the Voting Declaration, Class 3, Class 4 and Class 5 voted to accept the Plan.

I. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtors as the proponents of the Plan.

J. **Burden of Proof.** The Debtors, as the proponents of the Plan, have met their burden of proving the satisfaction of the requirements for confirmation of the Plan set forth in section 1129 of the Bankruptcy Code by a preponderance of the evidence, which is the applicable standard. Further, each witness who testified on behalf of the Debtors at or in connection with (by declaration) the Confirmation Hearing was credible, reliable and qualified to testify as to the topic addressed in his or her testimony.

K. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

L. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, which need not be

classified, the Plan designates seven (7) Classes of Claims and Interests. The Claims or Interests placed in each Class are substantially similar to other Claims or Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Interests. Thus, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

M. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article II of the Plan specifies that Class 1 (Secured Claims) and Class 2 (Priority Claims) are Unimpaired under the Plan. Thus, section 1123(a)(2) of the Bankruptcy Code is satisfied.

N. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article II of the Plan designates Class 3 (Surety Bond Claims), Class 4 (General Unsecured Claims), Class 5 (Convenience Claims), Class 6 (Subordinated Claims), and Class 7 (Interests) as Impaired and specifies the treatment of Claims and Interests in such Classes. Thus, section 1123(a)(3) of the Bankruptcy Code is satisfied.

O. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Debtors for each Claim or Interest in each respective Class unless the Holder of a particular Claim or Interest has agreed to a less favorable treatment of such Claim or Interest. Thus, section 1123(a)(4) of the Bankruptcy Code is satisfied.

P. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** The Plan, including, without limitation, Article V thereof, and the Plan Administrator Agreement provide adequate and

proper means for the Plan's implementation. Thus, section 1123(a)(5) of the Bankruptcy Code is satisfied.

**Q. Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Plan does not provide for the issuance of any securities, including non-voting securities, and the Debtors are being dissolved on or after the Effective Date as provided for in the Plan. Therefore, section 1123(a)(6) of the Bankruptcy Code is satisfied.

**R. Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Section 5.5 of the Plan provides for the appointment of a Plan Administrator, who will serve as a fiduciary of the Debtors' Estates and the Post-Effective Date Debtors, and who shall be empowered to, among other things, implement the terms of the Plan; object to, compromise, or settle any Claims; establish reserves; liquidate Assets; prosecute, compromise, resolve or withdraw any of the Retained Causes of Action; and otherwise wind-down the Estates in accordance with this Confirmation Order, the Plan, and the Plan Administrator Agreement. The Plan Administrator was selected by the Committee, in consultation with the Debtors and Federal Insurance Company. Section 5.6 of the Plan provides for the creation and function of the Plan Oversight Committee, which shall, among other things, instruct and supervise the Plan Administrator with respect to its responsibilities under the Plan and the Plan Administrator Agreement. Two of the three Plan Oversight Committee Members were selected by the Committee, in consultation with the Debtors. The third Plan Oversight Committee Member shall be Federal Insurance Company, as set forth in the Plan. Successors, if any, shall be selected pursuant to the procedures set forth in the Plan Administrator Agreement. The foregoing is consistent with the interest of holders of Claims and

holders of Interests and with public policy and therefore, section 1123(a)(7) of the Bankruptcy Code is satisfied.

S. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtors and their Estates, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

T. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtors have exercised appropriate business judgment in determining to reject the Debtors' remaining executory contracts and unexpired leases as provided for in the Plan and this Confirmation Order, and any such rejections are justified and appropriate in the Chapter 11 Cases.

U. **Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** The settlements and compromises pursuant to and in connection with the Plan, including, without limitation, the Plan Settlement, comply with and satisfy the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019. The Plan Settlement is reasonable, designed to achieve a beneficial and efficient resolution of the Chapter 11 Cases for all parties-in-interest, and a sound exercise of the Debtors' business judgment and in the best interest of the Estates. Accordingly, except as otherwise set forth in the Plan or herein, in consideration for the Distributions and other benefits provided for under the Plan and the Plan Settlement, including without limitation the release, exculpation, and injunction provisions, the Plan Settlement Payment, the indemnification rights set forth in the Indemnity Agreement, and the waiver and release of claims by the Partner Settlement Parties, the Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan.



Each component of the Plan Settlement is an integral part of the development and implementation of the Plan and the Plan Settlement.

V. Based upon the representations and arguments of counsel to the Debtors and other interested parties, including the Committee, with respect to Confirmation, all other testimony either actually given or proffered in connection with Confirmation, including, without limitation, the Voting Declaration, the Pometti Declaration and the Confirmation Memorandum, other evidence introduced at the Confirmation Hearing, and the full record of the Chapter 11 Cases, this Confirmation Order constitutes the Bankruptcy Court's approval of the Plan Settlement, because, among other things: (a) the Plan Settlement reflects a reasonable balance between the possible success of litigation with respect to each of the settled claims and disputes, on the one hand, and the benefits of fully and finally resolving such claims and disputes and allowing the Debtors to liquidate and distribute their Assets and wind down the Chapter 11 Cases in a timely and efficient manner, on the other hand; (b) absent the Plan Settlement, there is a likelihood of complex and protracted litigation, with the attendant risk, expense, inconvenience, and delay that has a possibility to derail the Debtors' liquidation and wind-down efforts; (c) the Plan Settlement provides significant value to the Debtors' Estates, favorably resolves and avoids potential litigation, and enables the prompt and efficient wind-down of the Debtors' Estates, and absent such settlement including the Plan Settlement Payment, the indemnification rights set forth in the Indemnity Agreement, and the waiver and release of claims by the Partner Settlement Parties, there is a substantial likelihood that significantly less value would be available for Allowed Claims; (d) each of the parties supporting the Plan Settlement, including the Plan Settlement Parties, and certain other interested parties, are represented by counsel; (e) the Plan Settlement is the product of arm's-length bargaining and good faith negotiations among sophisticated parties; and (f) the

Plan Settlement is in the best interests of the Debtors, their Estates, holders of Claims and Interests, and other parties-in-interest, and is fair, equitable, and reasonable. Based on the foregoing, the Plan Settlement satisfies the requirements of applicable Third Circuit law for approval of settlements and compromises pursuant to Bankruptcy Rule 9019.

**W. Releases, Exculpations, and Injunctions (11 U.S.C. § 1123(b)).** Under the facts and circumstances of the Chapter 11 Cases, the releases, exculpations, and injunctions provided for in the Plan are: (i) within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) an appropriate exercise of the Debtors' business judgment; (iii) integral elements of the transactions incorporated into the Plan, including, without limitation, the Plan Settlement, the Plan Settlement Payment, the Indemnity Agreement, and the waiver and release of claims by the Partner Settlement Parties contemplated thereby, and inextricably bound with the other provisions of the Plan; (iv) in exchange for good and valuable consideration provided by the Released Parties, including the Plan Settlement Payment, the Indemnity Agreement, and the waiver and release of claims by the Partner Settlement Parties; (v) in the best interests of the Debtors, the Estates, and all Holders of Claims and Interests that are Releasing Parties; (vi) fair, equitable, and reasonable; (vii) given and made after due notice and an opportunity to object and be heard with respect thereto, as the Disclosure Statement, the Confirmation Hearing Notice, the Voting Instructions, the Ballots, and the Notice of Non-Voting Status each unambiguously state that (a) the Plan contains certain release, exculpation, and injunction provisions and (b) affected parties may object to or opt out of the releases in Section 11.11(b) of the Plan, and therefore such releases, including the releases in Section 11.11(b) of the Plan, are consensual as they pertain to Holders of Claims; (viii) are consistent with sections 105, 524, 1123, 1129, and 1141 and other applicable provisions of the Bankruptcy Code and other applicable law; and (ix) a bar to any of the Releasing Parties

asserting any released claim against any of the Released Parties as and to the extent provided for in the Plan and this Confirmation Order.

X. **Debtors' Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).** Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtors have complied with the applicable provisions of the Bankruptcy Code, including, without limitation, sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplement, and all other matters considered by the Bankruptcy Court in connection with Confirmation.

Y. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtors have proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the Plan itself, and the process leading to its formulation. The Plan is the result of extensive arm's-length negotiations among the Plan Settlement Parties, and other key stakeholders in the Chapter 11 Cases, including Federal Insurance Company, and is supported by the Debtors' creditors and other parties in interest in the Chapter 11 Cases. It is clear that the Plan promotes the objectives and purposes of the Bankruptcy Code.

Z. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).** The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with the Chapter 11 Cases, or in connection with the Plan and incident to

the Chapter 11 Cases, satisfy the objectives of, and are in compliance with, section 1129(a)(4) of the Bankruptcy Code.

AA. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).** Section 5.3.1 of the Plan provides that, on the Effective Date, the Debtors' officers and managers shall be terminated automatically. The Plan Administrator and two of the three Plan Oversight Committee Members were selected by the Committee. Their identities and affiliations are set forth in the *Notice of Filing of Exhibits C and D to Plan Supplement for the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* [Docket No. 1445]. The third Plan Oversight Committee Member is Federal Insurance Company, as identified in the Plan. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

BB. **No Rate Changes (11 U.S.C. § 1129(a)(6)).** The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

CC. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The "best interests" test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date, that is not less than the amount that such Holder would so receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code, as demonstrated by the Liquidation Analysis attached as Exhibit C to the Disclosure Statement.

DD. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Class 1 (Secured Claims) and Class 2 (Priority Claims) are left unimpaired under the Plan, and Class 3 (Surety Bond Claims), Class 4 (General Unsecured Claims), and Class 5 (Convenience Claims) have voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as

to those Classes. However, Class 6 (Subordinated Claims) and Class 7 (Interests) are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not and cannot be satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b) of the Bankruptcy Code, as set forth below.

**EE. Treatment of Administrative, Professional Fee, Priority Tax, and Priority Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Professional Fee Claims, Priority Tax Claims, and Priority Claims pursuant to Article II of the Plan satisfies section 1129(a)(9) of the Bankruptcy Code.

**FF. Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 3 (Surety Bond Claims), Class 4 (General Unsecured Claims), and Class 5 (Convenience Claims) are Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, section 1129(a)(10) of the Bankruptcy Code is satisfied.

**GG. Feasibility (11 U.S.C. § 1129(a)(11)).** The Plan provides for the dissolution of the Debtors on or after the Effective Date and the liquidation of the Debtors' property. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

**HH. Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to the Plan, thus satisfying section 1129(a)(12) of the Bankruptcy Code.

**II. Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(13)–(16)).** Sections 1129(a)(13)–(16) of the Bankruptcy Code are inapplicable to Confirmation, as the Debtors: (i) do not provide “retiree benefits,” as defined in section 1114 of the Bankruptcy Code (§ 1129(a)(13));

(ii) have no domestic support obligations (§ 1129(a)(14)); (iii) are not individuals (§ 1129(a)(15)); and (iv) are not nonprofit corporations (§ 1129(a)(16)).

**JJ. No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Interests in Class 6 (Subordinated Claims) and Class 7 (Interests), which are deemed to have rejected the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code. There is no Class of Claims or Interests junior to the Holders of Claims or Interests in Class 6 or Class 7 that will receive or retain property under the Plan on account of their Claims or Interests. Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that is deemed to have rejected the Plan. Thus, the Plan satisfies section 1129(b) of the Bankruptcy Code with respect to Class 6 and Class 7.

**KK. Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan currently proposed in the Chapter 11 Cases, and section 1129(c) of the Bankruptcy Code is therefore satisfied.

**LL. Principal Purpose (11 U.S.C. § 1129(d)).** The principal purpose of the Plan is neither the avoidance of taxes, nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to Confirmation on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

**MM. Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for Confirmation set forth in section 1129 of the Bankruptcy Code, and should be confirmed.

NN. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtors and their officers, directors, employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code, and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Disclosure Statement Order in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the benefits and protections afforded by section 1125(e) of the Bankruptcy Code and the injunction and exculpation provisions set forth in Article XI of the Plan and in this Confirmation Order.

OO. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article X of the Plan and/or section 1142 of the Bankruptcy Code.

**Based upon the foregoing findings, and upon the record made before the Bankruptcy Court in connection with the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby ORDERED, ADJUDGED AND DECREED THAT:**

**Confirmation of the Plan**

1. The Plan, as and to the extent modified by this Confirmation Order, is approved and confirmed pursuant to section 1129 of the Bankruptcy Code, and any objections to the Plan have been resolved and/or overruled by the Bankruptcy Court, except that the Debtors' request to estimate the Claim of Central States Southeast and Southwest Areas Pension Fund for reserve and distribution purposes is denied without prejudice to the Plan Administrator's or the Post-Effective Date Debtors' rights to seek further relief from the Bankruptcy Court.

2. The terms of the Plan, including the Plan Settlement, are incorporated by reference into (except to the extent modified by this Confirmation Order), and are an integral part of, this Confirmation Order.

**Compromises and Settlements Under the Plan**

3. Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, upon the Effective Date, all settlements and compromises set forth in the Plan, including, without limitation, the Plan Settlement, are approved in all respects, and constitute good faith compromises and settlements. Further, all documents, agreements and instruments evidencing and implementing the Plan Settlement are approved hereby, including, without limitation, the Plan Settlement Agreement, the Indemnity Agreement, and that certain *Parent Company Guarantee Agreement*, by Bechtel Corporation and between Bechtel Corporation and Welded Construction, L.P., which is attached hereto as Exhibit C. The Debtors are authorized to execute and deliver such documents, agreements and instruments and to effectuate the Plan Settlement.

**Classification and Treatment**

4. The Plan's classification scheme is approved. The classifications set forth on the Ballots: (i) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (ii) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for Distribution purposes; (iii) may not be relied upon by any Holder as representing the actual classification of such Claim under the Plan for Distribution purposes; and (iv) shall not be binding on the Debtors and the Plan Administrator except for Plan voting purposes.

**Authorization to Implement the Plan**

5. The Debtors, the Post-Effective Date Debtors, and the Plan Administrator, as applicable, are authorized to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan, and to execute, enter into or otherwise make effective all documents arising in connection therewith, including, without limitation, the Plan Administrator Agreement, prior to, on, and after the Effective Date.



6. On the Effective Date, the Plan Administrator is authorized to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and the Plan Administrator Agreement, and to take all necessary actions required in connection therewith, in the name of and on behalf of the Debtors or the Post-Effective Date Debtors, as applicable.

7. The approvals and authorizations specifically set forth in this Confirmation Order are not intended to limit the authority of the Debtors, the Post-Effective Date Debtors or the Plan Administrator to take any and all actions necessary or appropriate to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order.

#### **Enforceability of the Plan**

8. Pursuant to sections 1123(a), 1141(a) and 1142 of the Bankruptcy Code, subject to the occurrence of the Effective Date, the Plan and all Plan-related documents (including, but not limited to, the Plan Administrator Agreement and Plan Settlement) shall be, and hereby are, valid, binding and enforceable.

#### **Vesting of Assets**

9. Except as otherwise provided in the Plan, on and after the Effective Date, all Assets of the Estates, including all claims, rights, Retained Causes of Action and any property acquired by the Debtors under or in connection with the Plan, including as a result of the Plan Settlement, shall vest in the Post-Effective Date Debtor Welded Construction, L.P. free and clear of all Claims, Liens, charges, other encumbrances, and Interests subject to the substantive consolidation provided for in the Plan.

**Preservation of Retained Causes of Action**

10. Except as expressly provided in the Plan, the Plan Settlement, or this Confirmation Order: (i) in accordance with Section 1123(b)(3) of the Bankruptcy Code, the Post-Effective Date Debtors shall retain all Retained Causes of Action and nothing contained in the Plan or this Confirmation Order shall be deemed a release, waiver or relinquishment of any such Retained Causes of Action; and (ii) subject to the provisions related to Preference Actions below, the Post-Effective Date Debtors or the Plan Administrator, as applicable, shall have, retain, reserve and be entitled to assert all such Retained Causes of Action as fully as if the Chapter 11 Cases had not been commenced, and all of the Post-Effective Date Debtors' legal and equitable rights respecting any Claim that are not specifically waived or relinquished by the Plan, this Confirmation Order, or any Final Order (including settlement or other agreements authorized thereby) may be asserted after the Effective Date to the same extent as if the Chapter 11 Cases had not been commenced. Solely to the extent that the Plan Oversight Committee Chairperson, individually and on its own behalf and sole discretion, consents, the Post-Effective Date Debtors or Plan Administrator, as applicable, may pursue and/or litigate one or more Preference Actions, and upon such consultation with the Plan Oversight Committee as to the potential benefits such Preference Actions(s) may bring after conducting an appropriate cost-benefit analysis (including weighing the potential impact upon Holders of any Surety Bond Claims) against the benefit to the Estates. For the avoidance of doubt, the Post-Effective Date Debtors or Plan Administrator, as applicable, are authorized to pursue Preference Actions under conditions required by the Plan Oversight Committee Chairperson, if, in the Post-Effective Date Debtors' or Plan Administrator's respective business judgment, the pursuit of such Preference Actions under such required conditions is expected to result in a net benefit to the creditors.

**Reservation of Causes of Action**

11. Unless a Retained Cause of Action against a Holder or other Person or Entity is expressly waived, relinquished, released, compromised or settled in the Plan, the Plan Settlement, or any Final Order (including this Confirmation Order and including settlement or other agreements authorized by any Final Order), the Debtors, the Estates and the Post-Effective Date Debtors expressly reserve such Retained Cause of Action for later adjudication by the Post-Effective Date Debtors, including, without limitation, Retained Causes of Action of which the Debtors may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances that may change or be different from those the Debtors now believe to exist. Therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches or the like shall apply to such Retained Causes of Action upon or after the entry of this Confirmation Order or Effective Date based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Retained Causes of Action have been expressly waived, relinquished, released, compromised or settled in the Plan, the Plan Settlement, this Confirmation Order, or any Final Order of the Bankruptcy Court or, following the Effective Date, in a written agreement duly executed by the Post-Effective Date Debtors, which agreement, by its terms, is not subject to Bankruptcy Court approval.

#### **Wind-Up and Dissolution of the Debtors**

12. (a) **Welded Construction Michigan, LLC.** On the Effective Date, the Plan Administrator will be appointed to manage the Subsidiary in consultation with the Plan Oversight Committee, in accordance with the Plan and the Plan Administrator Agreement. Following the implementation of the Plan, the administration and distribution of the Debtors' Assets in accordance with the terms of the Plan, and the winding down of the Subsidiary's affairs, without

the need for any further order or action of the Bankruptcy Court, the Subsidiary will be dissolved and its affairs will be wound up in accordance with Michigan law. The Plan Administrator is authorized to take, in consultation with the Plan Oversight Committee, all actions reasonably necessary to dissolve the Subsidiary, and neither the Plan Administrator nor the Post-Effective Date Debtors shall be required to pay any taxes or fees in order to cause such dissolution and termination of the Subsidiary's existence. As the Partnership is the sole member of the Subsidiary, the interest in the Subsidiary is an asset in the Partnership's Estate.

(b) **Welded Construction, L.P.** On the Effective Date, pursuant to the Plan, all of the Interests in the Partnership, including, without limitation, all of the GP Interests and the LP Interests, are deemed automatically canceled, in exchange for no consideration to the Holders thereof. Upon such cancellation, the Partnership will have no general partners and no limited partners. As a consequence, the Partnership will thereupon automatically dissolve pursuant to section 17-801(4) of the LP Act. Notwithstanding the dissolution of the Partnership, it will continue to exist as a separate legal entity, pursuant to section 17-201(b) of the LP Act, until the filing with the Delaware Secretary of State of a Certificate of Cancellation canceling the Partnership's Certificate of Limited Partnership (which filing is not subject to any statutory deadline). During the period between the Partnership's dissolution and the filing of the Certificate of Cancellation, the Partnership's business and affairs will be wound up under sections 17-803(b) and 17-804 of the LP Act. Subject to the terms of the Plan, such winding up may involve, among other things, prosecuting suits by and defending suits against the Partnership; settling and closing the Partnership's business, if any; liquidating, disposing of, and conveying the Partnership's property; paying, discharging or making reasonable provision for the Partnership's liabilities; and taking all actions permitted under the Plan. The winding up will be carried out by or under the

direction of the Plan Administrator in consultation with the Plan Oversight Committee. The Plan Administrator will be the Liquidating Trustee of the Partnership as provided in sections 17-803 and 17-804 of the LP Act. When the Plan Administrator shall have implemented the Plan, administered and distributed the Debtors' Assets in accordance with the terms of the Plan, and otherwise completed winding up the business and affairs of the Partnership, the Plan Administrator shall, in consultation with the Plan Oversight Committee, cause the Partnership's Certificate of Limited Partnership to be canceled under section 17-203(a) of the LP Act by filing a Certificate of Cancellation with the Delaware Secretary of State. The Plan Administrator is authorized to take, after consultation with the Plan Oversight Committee, all actions reasonably necessary to cause such cancellation, and neither the Plan Administrator nor the Post-Effective Date Debtors shall be required to pay any taxes or fees in order to cause such cancellation. Regardless of when such winding up is completed, under no circumstances will such Certificate of Cancellation be filed before the Subsidiary shall have been dissolved and its affairs completely wound up.

#### **Cancellation of Interests**

13. As of the Effective Date, all Interests of any kind, including, without limitation, the GP Interests and LP Interests, shall be deemed cancelled, and the Holders thereof shall not receive or retain any property, interest in property or consideration under the Plan on account of such Interests.

#### **Substantive Consolidation**

14. Except as otherwise provided in the Plan, each Debtor shall continue to maintain its separate corporate existence after the Effective Date for all purposes, other than the treatment of Claims and Distributions under the Plan. Except as expressly provided in the Plan (or as otherwise ordered by the Bankruptcy Court), on the Effective Date for purposes of voting to accept or reject the Plan and Distributions: (i) the Assets and liabilities of the Debtors shall be deemed

merged or treated as though they were merged into and with the Assets and liabilities of Debtor Welded Construction, L.P.; (ii) all guaranties of the Debtors of the obligations of any other Debtor shall be deemed eliminated and extinguished so that any Claim against any Debtor, and any guarantee thereof executed by any Debtor and any joint or several liability of any of the Debtors shall be deemed to be one obligation of Debtor Welded Construction, L.P.; (iii) each and every Claim filed or to be filed in either of the Chapter 11 Cases shall be treated as filed against the consolidated Debtors and shall be treated as one Claim against and obligation of Welded Construction, L.P.; (iv) all Intercompany Claims shall be eliminated and extinguished, and holders of Intercompany Claims shall not receive any Distributions or retain any property pursuant to the Plan on account of such Intercompany Claims; and (v) for purposes of determining the availability of the right of setoff under section 553 of the Bankruptcy Code, the Debtors shall be treated as one entity, Welded Construction, L.P., so that, subject to the other provisions of section 553 of the Bankruptcy Code, debts due to any of the Debtors may be set off against the debts of any of the other Debtors. Such substantive consolidation shall not (other than for purposes relating to the Plan) affect the legal and corporate structures of the Post-Effective Date Debtors. Moreover, such substantive consolidation shall not affect any subordination provisions set forth in any agreement relating to any Claim or Interest or the ability of the Post-Effective Date Debtors to seek to have any Claim or Interest subordinated in accordance with any contractual rights or equitable principles. Notwithstanding anything in this section to the contrary, all post-Effective Date fees payable to the U.S. Trustee pursuant to U.S.C. § 1930, if any, shall be calculated on a separate legal entity basis for each Post-Effective Date Debtor.

#### **Plan Distributions**

15. The Plan Administrator or its designee, on behalf of the Post-Effective Date Debtors, shall serve as the disbursing agent under the Plan with respect to Distributions to Holders

of Allowed Claims (provided that the Post-Effective Date Debtors may hire professionals or consultants to assist with making Distributions). The Post-Effective Date Debtors shall make all Distributions required to be made to such Holders of Allowed Claims pursuant to the Plan, the Confirmation Order and the Plan Administrator Agreement. The Post-Effective Date Debtors shall not be required to give any bond or surety or other security for the performance of the Plan Administrator's duties as disbursing agent unless otherwise ordered by the Bankruptcy Court.

16. Except as otherwise provided herein or as ordered by the Bankruptcy Court, all Distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the initial distribution date by the Post-Effective Date Debtors. Distributions on account of Claims that first become Allowed Claims after the Effective Date shall be made pursuant to the terms and conditions of the Plan and the Plan Administrator Agreement. No Distribution shall be made on account of, without limitation, any Allowed Claim or portion thereof that (i) has been satisfied after the Petition Date; (ii) is listed in the Schedules as contingent, unliquidated, disputed or in a zero amount, and for which a proof of claim has not been timely filed; or (iii) is evidenced by a proof of claim that has been amended by a subsequently filed proof of claim.

17. Except to the extent provided in section 506(b) of the Bankruptcy Code, the Plan, or this Confirmation Order, post-petition interest, penalties or fees shall not accrue or be paid on Allowed Claims, and no Holder of an Allowed Claim shall be entitled to interest accruing on any Allowed Claim from and after the Petition Date.

**Implementation of the Plan and the Plan Administrator**

18. The Plan Administrator Agreement, substantially in the form filed with the Plan Supplement, is hereby approved.

19. The appointment of Cullen D. Speckhart as the Plan Administrator is hereby approved. The Plan Administrator shall be compensated in the manner set forth in and consistent with the Plan and the Plan Administrator Agreement. The Plan Administrator shall have all powers, rights, duties and protections afforded the Plan Administrator under the Plan, this Confirmation Order, and the Plan Administrator Agreement.

20. The formation of the Plan Oversight Committee is hereby approved. The appointment of the Plan Oversight Committee Chairperson is hereby approved. The initial members of the Plan Oversight Committee are Federal Insurance Company (the Plan Oversight Committee Chairperson), Pipe Line Employers Health & Welfare Fund, and Earth Pipeline Services, Inc.

**Executory Contracts and Unexpired Leases**

21. On the Effective Date, all executory contracts and unexpired leases of the Debtors that have not been assumed, assumed and assigned, or rejected, prior to the Effective, or are not subject to a motion to assume or reject Filed before the Effective Date, shall be deemed rejected pursuant to this Confirmation Order, as of the Effective Date, other than the Plan Settlement Agreement, the Indemnity Agreement, the Litigation Funding and Cooperating Agreement and the Insurance Contracts, including, without limitation, those contracts and leases identified in the Plan Supplement. For the avoidance of doubt, any post-petition consulting agreements shall not be deemed rejected as of the Effective Date.

22. **Any Creditor asserting a Rejection Claim shall File a proof of claim with the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, in accordance with the Plan, within thirty-five (35) days of the Effective Date, and shall also serve such proof of claim upon the Plan Administrator.**



23. **Any Rejection Claims arising from the Plan that are not timely Filed pursuant to Section 6.1 of the Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely filed, the Plan Administrator may file an objection to any Rejection Claim on or prior to the Claim Objection Deadline.**

**Disputed Claims**

24. Except as otherwise specifically provided in the Plan, this Confirmation Order and the Plan Administrator Agreement, after the Effective Date, the Post-Effective Date Debtors shall have the authority (i) to file, withdraw, or litigate to judgment objections to Claims; (ii) to settle, compromise, or Allow any Claim or Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; (iii) to amend the Schedules in accordance with the Bankruptcy Code; and (iv) to administer and adjust the claims register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court. Any agreement entered into by the Post-Effective Date Debtors (acting in accordance with the terms of the Plan Administrator Agreement) with respect to the Allowance of any Claim shall be conclusive evidence and a final determination of the Allowance of such Claim.

25. **All objections to Claims (other than (i) Administrative Claims and (ii) Professional Fee Claims, which Professional Fee Claims shall be governed by Section 11.2 of the Plan) shall be Filed by the Post-Effective Date Debtors on or before the Claim Objection Deadline, which date may be extended by the Bankruptcy Court upon a motion filed by the Post-Effective Date Debtors on or before the Claim Objection Deadline with notice only to those parties entitled to notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002 as of the filing of such motion. The Filing of a motion to extend the Claim Objection Deadline shall automatically extend the Claim Objection Deadline until a final order is entered by the Bankruptcy Court. In the event that such a motion to extend the**

**Claim Objection Deadline is denied the Claim Objection Deadline shall be the later of the then-current Claim Objection Deadline (as previously extended, if applicable) or thirty (30) days after entry of a Final Order denying the motion to extend the Claim Objection Deadline.**

**Administrative Claims**

26. **All requests for payment of an Administrative Claim arising on or after April 1, 2019 must be Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, and counsel to the U.S. Trustee no later than thirty five (35) days after the Effective Date.** In the event of an objection to allowance of an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim.

**Professional Fee Claims**

27. **All final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, and counsel to the U.S. Trustee no later than thirty (30) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, counsel to the Committee, counsel to the U.S. Trustee and the requesting Professional on or before the date that is fourteen (14) days after the date on which the applicable application was served (or such longer period as may be allowed by Order of the Bankruptcy Court or by agreement with the requesting Professional).**

28. **All Professional Fee Claims shall be paid by the Estates to the extent approved by Order of the Bankruptcy Court within five (5) Business Days from entry of such Order. On or before the Effective Date, the Debtors shall establish the Professional Fee Reserve, which shall**

only be used to pay (i) Professional Fee Claims and (ii) any claims of Zolfo Cooper Management LLC and AlixPartners, LLP (as applicable) for compensation or reimbursement of costs and expenses relating to services provided to the Debtors during the period from the Petition Date through the Effective Date, unless and until all Professional Fee Claims and any such claims of Zolfo Cooper Management, LLC and AlixPartners, LLP (as applicable) have been paid in full, otherwise satisfied, or withdrawn. The Professional Fee Reserve shall vest in the Estates and shall be maintained by the Post-Effective Date Debtors in accordance with the Plan and the Plan Administrator Agreement.

29. The Estates shall fund the Professional Fee Reserve on the Effective Date in an amount that is agreed upon by the Debtors and the Committee and that approximates, as of the Effective Date, the total projected amount of unpaid Professional Fee Claims and unpaid claims of Zolfo Cooper Management, LLC and AlixPartners, LLP, as applicable, for compensation or reimbursement of costs and expenses relating to services provided to the Debtors' Estates during the period from the Petition Date through the Effective Date. If the Debtors and the Committee are unable to agree on an amount by which the Professional Fee Reserve is to be funded, the Debtors and the Committee shall submit the issue to the Bankruptcy Court, which, following notice and a hearing, shall fix the amount of the required Professional Fee Reserve. Any excess funds in the Professional Fee Reserve shall be released back to the Estates to be used for other purposes consistent with the Plan and the Plan Administrator Agreement.

**Release, Injunction, Exculpation and Related Provisions**

30. The release, injunction, exculpation, and related provisions set forth in Article XI of the Plan are hereby approved and authorized in their entirety, and such provisions are effective and binding on all Persons and Entities as and to the extent provided for therein.

**Payment of Statutory Fees**

31. All fees payable pursuant to section 1930 of title 28 of the United States Code prior to the Effective Date shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Estates, the Post-Effective Date Debtors, and the Plan Administrator in the ordinary course. The Post-Effective Date Debtors and the Plan Administrator shall have the obligation to file quarterly post-confirmation operating reports and to pay quarterly fees to the Office of the United States Trustee pursuant to section 1930 of title 28 of the United States Code for each Debtor until its particular case is closed, dismissed or converted. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to section 1930 of title 28 of the United States Code.

**Dissolution of the Committee**

32. On the Effective Date, the Committee shall dissolve and all members, ex officio members, employees, attorneys, financial advisors, other Professionals, or other agents thereof shall be released from all rights and duties arising from or related to the Chapter 11 Cases or the Plan and its implementation, and the retention or employment of the Committee's attorneys and financial advisors and other agents shall terminate, provided, however, that the Committee shall continue in existence and its Professionals shall continue to be retained with respect to (i) applications Filed or to be Filed pursuant to sections 330 and 331 of the Bankruptcy Code and (ii) any appeals of this Confirmation Order.

**Notice of Entry of Confirmation Order and Effective Date**

33. Pursuant to Bankruptcy Rules 2002 and 3020(c), the Debtors shall serve a notice of entry of this Confirmation Order and the occurrence of the Effective Date, substantially in the form attached hereto as **Exhibit B** (the “**Notice of Confirmation and Effective Date**”), no later

than five (5) Business Days after the Effective Date, on all Holders of Claims against or Interests in the Debtors and all other Persons on whom the Confirmation Hearing Notice was served. The form of the Notice of Confirmation and Effective Date is hereby approved in all respects. The Notice of Confirmation and Effective Date shall constitute good and sufficient notice of the entry of this Confirmation Order and of the relief granted herein, including, without limitation, the rejection of executory contracts and unexpired leases as provided for in the Plan and this Confirmation Order, and any bar dates and deadlines established under the Plan and this Confirmation Order, and no other or further notice of the entry of this Confirmation Order, the occurrence of the Effective Date and any such bar dates and deadlines need be given.

#### **Retention of Jurisdiction**

34. Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of this Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, to take the actions specified in Article X of the Plan, including, without limitation, hear and determine the Williams Litigation, that certain litigation styled as *Schmid Pipeline Construction, Inc. v. Columbia Gas Transmission, LLC and Welded Construction, L.P.*, Adv. Case No. 19-50886 (CSS), and that certain litigation styled as *Earth Pipeline Services, Inc. v. Columbia Gas Transmission, LLC*, Adv. Case Nos. 19-50274 (CSS) and 19-50275 (CSS).

#### **References to Plan Provisions**

35. The failure specifically to include or to refer to any particular article, section, or provision of the Plan or any related document, including the Plan Settlement or any provision thereof, in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, and such article, section, or provision shall have the same validity, binding

effect, and enforceability as every other article, section, or provision of the Plan, it being the intent of the Bankruptcy Court that the Plan (as and to the extent modified by this Confirmation Order) be confirmed in its entirety.

**Rules Governing Conflicts Between Documents**

36. In the event and to the extent that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement and any other Order in the Chapter 11 Cases, or any other agreement to be executed by any Person pursuant to the Plan, the provisions of the Plan shall control and take precedence; provided, however, that (i) this Confirmation Order shall control and take precedence in the event of any inconsistency between this Confirmation Order, any provision of the Plan, and any of the foregoing documents and (ii) except as to the Plan Settlement and Article XI of the Plan, the Order Approving Litigation Funding and Cooperation Agreement shall control and take precedence in the event of any inconsistency between the terms of the Plan and the terms of the Litigation Funding and Cooperation Agreement.

**Extension of Injunctions and Stays**

37. Unless otherwise provided in the Plan or in this Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (including any injunctions or stays contained in or arising from the Plan or this Confirmation Order), shall remain in full force and effect.

**Section 1146 Exemption**

38. Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by the Plan, or the re-vesting, transfer or sale of any real or personal property of the Debtors pursuant to, in implementation of, or as

contemplated by the Plan, shall not be taxed under any state or local law imposing a stamp tax, transfer tax or any similar tax or fee.

**Resolution of Certain Confirmation Objections**

39. On June 22, 2020, counsel for Sunbelt Equipment Marketing, Inc., Sunbelt Tractor & Equipment Company, Cross Country Infrastructure Services, Inc., f/k/a Cross Country Pipeline Supply Co., Inc., and Outlaw Padding Company (collectively, the “**Contract Rejection Parties**”) withdrew such parties’ objection to confirmation of the Plan [Docket No. 1474]; *provided, however,* that the Contract Rejection Parties have not withdrawn their election to opt out of the third party releases provided for under Section 11.11(b) of the Plan.

**Stipulations and Reservation of Rights**

40. **Mersino Dewatering Inc.** Mersino Dewatering Inc. (“**Mersino**”) and the Debtors stipulate that Mersino’s election into the Convenience Class is void, and Mersino shall be entitled to make such election as set forth in Section 1.30 of the Plan.

41. **Columbia Gas Transmission, LLC.** Notwithstanding anything contained herein or in the Plan to the contrary, Columbia Gas Transmission, LLC shall not be precluded or enjoined from asserting the defenses of set-off or recoupment as to or against any claims, Assets or property of the Debtors and their Estates or the Post-Effective Date Debtors or anyone claiming by them, through them, or on their behalf.

42. **The Williams Parties.** Notwithstanding anything to the contrary in the Plan or this Confirmation Order, nothing in the Plan or this Confirmation Order shall modify or prejudice the respective rights, claims, defenses, or positions, including, without limitation, any rights of setoff and/or recoupment, of, on the one hand, the Debtors, Post-Effective Date Debtors, the Plan Administrator, or, on the other hand, Transcontinental Gas Pipe Line Company, LLC, The Williams Companies, Inc., and Williams Partners Operating LLC (collectively, the “**Williams**”

**Parties**”) as between one another, with such rights, claims, defenses, and positions, including, without limitation, any rights of setoff and/or recoupment or authority to set off or recoup, to be determined through the Williams Litigation. Nothing contained herein is intended to add or expand rights, claims or defenses any party may assert or fails to preserve in the Williams Litigation.

43. Notwithstanding anything to the contrary set forth in the Plan, the Plan Administrator Agreement or this Confirmation Order, the Williams Parties shall receive notice of any proposed settlement or resolution of the Allowance of the Surety Bond Claim and shall have 14 days from the date of notice to file a written objection in the Bankruptcy Court on notice to the Post-Effective Date Debtors and/or the Plan Administrator and Federal Insurance Company. The Court shall retain jurisdiction to hear such objection and the Williams Parties, the Plan Administrator, the Post-Effective Date Debtors and Federal Insurance Company retain all rights and defenses, including with respect to the standing of the Williams Parties and with respect to any assertion of Federal Insurance Company of an increased Surety Bond Claim amount. Federal Insurance Company and the Williams Parties also reserve all rights and defenses with respect to any assertion of Federal Insurance Company of a claim against the Williams Parties for impairment of suretyship damages and other claims under applicable surety law including, without limitation, with respect to the jurisdiction of any court over such claims and nothing herein shall be deemed consent to the jurisdiction of the bankruptcy court over such claims.

44. The Plan does not impair Transcontinental Gas Pipe Line Company, LLC rights, if any, to amend its Claim to the extent permitted under the applicable bankruptcy law, provided that



all applicable rights of the Post-Effective Date Debtors and/or the Plan Administrator to oppose any such claim amendment are preserved in full.

45. **Ohio Machinery Company (d/b/a Ohio CAT)**. Notwithstanding anything to the contrary in the Plan or this Confirmation Order, and for the avoidance of doubt, the settlements and agreements between Ohio Machinery Co. and the Debtors (collectively, the “**Ohio CAT Agreements**”) and the releases and waivers provided therein (collectively, the “**Ohio CAT Releases**”), which were approved by orders entered on September 5, 2019 [Docket No. 981] and May 4, 2020 [Docket No. 1348], shall be binding upon the Debtors, the Estates, the Post-Effective Date Debtors, the Plan Administrator, the Plan Oversight Committee, the Plan Oversight Committee Chairperson and any other party identified in the Ohio CAT Agreements, and nothing waived, released, relinquished, remised, acquitted, settled, comprised or discharged pursuant to (or otherwise subject to) the Ohio CAT Releases shall constitute a Retained Cause of Action.

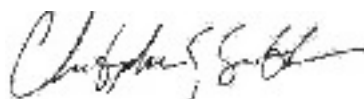
#### **Headings**

46. Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

#### **No Stay of Confirmation Order**

47. Notwithstanding Bankruptcy Rules 3020(e), 6004(h), and 7062 and any other Bankruptcy Rule to the contrary, to the extent applicable, there is no reason for delay in the implementation of this Confirmation Order and, thus, this Confirmation Order shall be effective and enforceable immediately upon entry.

Dated: June 25th, 2020  
Wilmington, Delaware



CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT A**

**Plan**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	
	)	Chapter 11
	)	
WELDED CONSTRUCTION, L.P., <i>et al.</i> , <sup>1</sup>	)	Case No. 18-12378 (CSS)
	)	
	)	(Jointly Administered)
Debtors.	)	
	)	

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**AMENDED CHAPTER 11 PLAN OF  
WELDED CONSTRUCTION, L.P. AND WELDED CONSTRUCTION MICHIGAN, LLC**

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Sean M. Beach (No. 4070)

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*Counsel to the Debtors*

Dated: June 25, 2020

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

**AMENDED CHAPTER 11 PLAN OF  
WELDED CONSTRUCTION, L.P. AND WELDED CONSTRUCTION MICHIGAN, LLC**

**INTRODUCTION**<sup>2</sup>

The Debtors hereby propose this Plan, which provides for, among other things, the resolution of Claims and Interests against the Debtors. Reference is made to the Disclosure Statement for, among other things, (i) a discussion of the Debtors' history, business and properties; (ii) a summary and analysis of this Plan, including the compromises and settlements provided for in this Plan; and (iii) certain related matters, including certain risk factors relating to the consummation of this Plan and Distributions to be made under this Plan. In addition, this Plan provides for and implements the Plan Settlement as embodied in the Plan Settlement Agreement and attached Indemnity Agreement, a copy of which is attached as **Exhibit A** to this Plan, by and between the Plan Settlement Parties. Pursuant to the Plan Settlement, the Plan Settlement Parties have agreed to, among other things, resolve any and all disputes between the Debtors, the Committee and the Partner Settlement Parties in exchange for (i) the Plan Settlement Payment; (ii) waiver of any and all claims against the Debtors and the Estates by the Partner Settlement Parties; (iii) mutual releases as provided for in this Plan; and (iv) indemnification by the Partner Settlement Parties with respect to the Central States Claim and related litigation, as set forth in the Indemnity Agreement. This Plan serves as a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the compromises and settlements provided for in the Plan Settlement, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors, the Estates, Holders of Claims, and other parties in interest, and are fair, equitable, and reasonable.

The Debtors are the proponents of this Plan within the meaning of section 1129 of the Bankruptcy Code.

These Chapter 11 Cases are being jointly administered pursuant to an order [D.I. 33] of the Bankruptcy Court. Under Section 5.2 of this Plan, for purposes of voting and Distributions in connection with this Plan, the Debtors will be substantively consolidated for Plan purposes only, meaning that all of the Assets and liabilities of the Debtors will be deemed to be the Assets and liabilities of Welded Construction, L.P. for purposes of voting to accept or reject this Plan, and for Distributions. As a result, the votes to accept or reject this Plan by Holders of Claims against a particular Debtor shall be tabulated as votes to accept or reject this Plan for the substantively consolidated Debtors. The Debtors reserve the right to make appropriate modifications of this Plan if and to the extent necessary to effectuate confirmation of this Plan. Except as otherwise provided in this Plan, each of the Debtors shall continue to maintain its separate corporate existence after the Effective Date for purposes other than the treatment of Claims and Distributions under this Plan.

All Holders of Claims who are entitled to vote on this Plan are encouraged to read this Plan and the Disclosure Statement, and the respective exhibits attached thereto, in their entirety before

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<sup>2</sup> Capitalized terms not defined in this Introduction shall have the meanings ascribed to them in this Plan.

voting to accept or reject this Plan and making any elections in connection with this Plan with respect to Convenience Claims and releases under Section 11.11(b) of this Plan, as applicable. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code, Bankruptcy Rule 3019, and Section 11.5 of this Plan, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan.

No solicitation materials, other than the Disclosure Statement and related materials transmitted therewith, have been approved for use in soliciting acceptances and rejections of this Plan. Nothing in this Plan should be construed as constituting a solicitation of acceptances of this Plan unless and until the Disclosure Statement has been approved by the Bankruptcy Court and distributed to Holders of Claims to the extent required by section 1125 of the Bankruptcy Code.

**THE DEBTORS BELIEVE THAT THIS PLAN IS IN THE BEST INTERESTS OF CREDITORS AND THE ESTATES, AND ENCOURAGE ALL PARTIES TO VOTE TO ACCEPT THE PLAN.**

**THE COMMITTEE AND FEDERAL INSURANCE COMPANY SUPPORT THIS PLAN, AND ENCOURAGE ALL PARTIES ENTITLED TO VOTE TO ACCEPT THE PLAN.**

## ARTICLE I

### DEFINED TERMS AND RULES OF INTERPRETATION

For purposes of this Plan, except as expressly provided or unless the context otherwise requires:

(a) all capitalized terms used in this Plan and not otherwise defined in this Plan, the Bankruptcy Code or the Bankruptcy Rules, shall have the meanings ascribed to them in this Article I of this Plan;

(b) any capitalized term used in this Plan that is not defined in this Plan, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable;

(c) whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine;

(d) any reference in this Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified or supplemented from time to time;

(e) unless otherwise specified, all references in this Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules and exhibits of or to this Plan;

(f) the words “herein,” “hereof,” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan;

(g) captions and headings to articles and sections are inserted for convenience of reference only, and are not intended to be a part of or to affect the interpretation of this Plan; and

(h) the rules of construction set forth in section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

The capitalized terms used in this Plan shall have following meanings:

**1.1 Administrative Claim:** A Claim (other than a Professional Fee Claim, but, for the avoidance of doubt, including Ordinary Course Professional Fee Claims) arising under sections 365, 503(b), 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code, to the extent not previously paid, otherwise satisfied or withdrawn, including, but not limited to, fees and charges assessed against the Estates under chapter 123 of title 28 of the United States Code and Section 503(b)(9) Claims.

**1.2 Administrative and Priority Claims Reserve:** The reserve of Cash funded by the Post-Effective Date Debtors and maintained by the Plan Administrator in an account for the benefit of Holders of Allowed Unclassified Claims (exclusive of Holders of Professional Fee Claims, the reserve for which Holders shall be the Professional Fee Reserve), Allowed Secured Claims and Allowed Priority Claims in an amount equal to the Administrative and Priority Claims Estimate.

**1.3 Administrative and Priority Claims Estimate:** As of the Effective Date, the estimated amount determined by the Debtors in consultation with the Committee, exclusive of Professional Fee Claims, of all unpaid Claims that will be Allowed Unclassified Claims, Allowed Secured Claims and Allowed Priority Claims.

**1.4 Allowed:** With respect to any Claim, except as otherwise provided herein: (a) a Claim that has been scheduled by the Debtors on their Schedules as other than disputed, contingent or unliquidated and as to which no contrary proof of claim has been filed; (b) a Claim that is set forth in a timely filed proof of claim as to which no objection has been filed on or before the Claim Objection Deadline, and which is not otherwise a Disputed Claim; (c) a Claim that has been allowed by a Final Order; (d) a Claim that is allowed: (i) in any stipulation executed by the Debtors prior to the Effective Date and approved by the Bankruptcy Court; (ii) in any stipulation executed by the Post-Effective Date Debtors on or after the Effective Date; or (iii) in any contract, instrument, indenture or other agreement entered into or assumed by Debtors in connection with and in accordance with this Plan; or (e) a Claim that is allowed pursuant to the terms of this Plan.

**1.5 Allowed Claim, or Allowed [ ] Claim:** A Claim that has been Allowed.

**1.6 Assets:** Any and all right, title and interest of the Debtors and their Estates in and to property of whatever type or nature, including, and without limitation, any proceeds thereof, the Retained Causes of Action, the Debtors' books and records, the Plan Settlement Payment, and the other benefits and rights of the Debtors and the Estates under the Plan Settlement.

**1.7 Avoidance Actions:** Any and all avoidance or equitable subordination or recovery actions under sections 105(a), 502(d), 510, 542 through 551 and 553 of, and otherwise under, the Bankruptcy Code or any similar federal, state or common law causes of action, including, without limitation, Preference Actions.

**1.8 Ballot:** The ballot form distributed to each Holder of a Claim entitled to vote to accept or reject this Plan.

**1.9 Bankruptcy Code:** Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as may be amended).

**1.10 Bankruptcy Court:** The United States Bankruptcy Court for the District of Delaware, or in the event such court ceases to exercise jurisdiction over any Chapter 11 Case, such court or adjunct thereof that exercises jurisdiction over such Chapter 11 Case in lieu of the United States Bankruptcy Court for the District of Delaware.

**1.11 Bankruptcy Rules:** The Federal Rules of Bankruptcy Procedure (as may be amended).

**1.12 Bar Date Orders:** (i) That certain order of the Bankruptcy Court entered on January 10, 2019 [D.I. 403] establishing (1) February 28, 2019 at 5:00 p.m. (Eastern Time) as the date by which each Person or Entity, other than governmental units, must file a proof of claim based on claims against the Debtors that arose prior to the Petition Date, including requests for allowance and payment of Section 503(b)(9) Claims; and (2) April 22, 2019, at 5:00 p.m. (prevailing Eastern Time), as the deadline by which any Governmental Unit (as such term is defined in section 101(27) of the Bankruptcy Code) must file proofs of claim against the Debtors; (ii) that certain order of the

Bankruptcy Court entered on March 11, 2019 [D.I. 554] establishing April 30, 2019, at 5:00 p.m. (Eastern Time), as the date by which each Person or Entity asserting an Administrative Claim (except for Section 503(b)(9) Claims), which claim arose during the period from the Petition Date through and including March 31, 2019, must file a request for allowance of such claim; and (iii) that certain order of the Bankruptcy Court entered on September 5, 2019 [D.I. 978] establishing the date that is ten (10) days after the date that the Bankruptcy Court enters an order approving the Disclosure Statement as the date by which Federal Insurance Company must file a Section 503(b)(9) Claim, if any.

**1.13 Bechtel GP:** Ohio Welded Company, LLC and its predecessors.

**1.14 Bechtel LP:** Bechtel Oil, Gas & Chemicals, Inc. and its predecessors.

**1.15 Bonded Contracts:** Any and all construction contracts to which the Debtors are a party and for which Federal Insurance Company, or any of its affiliated sureties, has issued a surety bond for the benefit of such contract counterparties.

**1.16 Business Day:** Any day, excluding Saturdays, Sundays or “legal holidays” (as defined in Bankruptcy Rule 9006(a)(6)) on which commercial banks are open for business in Wilmington, Delaware.

**1.17 Cash:** Cash and cash equivalents in certified or immediately available U.S. funds, including but not limited to bank deposits, checks and similar items.

**1.18 Causes of Action:** Includes, without limitation, any and all of the Debtors’ actions, causes of action, Avoidance Actions, controversies, liabilities, obligations, rights, suits, damages, judgments, Claims and demands whatsoever, whether known or unknown, reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, whether assertible by the Debtors directly, indirectly, derivatively or in any representative or other capacity, now existing or hereafter arising, in law, equity or otherwise, based in whole or in part upon any act, failure to act, error, omission, transaction, occurrence or other event arising or occurring prior to or after the Petition Date.

**1.19 [Reserved]**

**1.20 [Reserved]**

**1.21 Chapter 11 Cases:** The voluntary chapter 11 bankruptcy cases commenced by the Debtors, which are being jointly administered under case caption *Welded Construction, L.P., et al.*, Case No. 18-12378 (CSS).

**1.22 Claim:** A claim, as defined in section 101(5) of the Bankruptcy Code, against the Debtors or the Estates whether or not asserted or Allowed, whether or not arising before or after the Effective Date.

**1.23 Claim Objection Deadline:** The date that is one hundred and eighty (180) days after the Effective Date, subject to extension as set forth in Section 8.2 of this Plan.



**1.24 Class:** A category of Claims or Interests designated pursuant to this Plan.

**1.25 Collateral:** Any property or interest in property of a Debtor's Estate that is subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable law.

**1.26 Confirmation:** Entry by the Bankruptcy Court of the Confirmation Order.

**1.27 Confirmation Date:** The date upon which the Confirmation Order is entered by the Bankruptcy Court.

**1.28 Confirmation Hearing:** Collectively, the hearing or hearings held by the Bankruptcy Court on confirmation of this Plan, as such hearing or hearings may be continued from time to time.

**1.29 Confirmation Order:** The Order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

**1.30 Convenience Claim:** Any Claim that would otherwise be classified as a General Unsecured Claim but, with respect to such Claim, (i) the aggregate amount of such Claim is equal to or less than \$100,000; or (ii) the aggregate amount of such Claim is greater than \$100,000, and the Holder of such Claim makes an election on its Ballot, or otherwise in writing to the Debtors within thirty (30) days of such Claim being Allowed, to reduce its Claim to \$100,000 and receive the treatment provided to Convenience Claims under this Plan.

**1.31 Convenience Claim Reserve:** The reserve of Cash funded by the Debtors and maintained by the Plan Administrator in an escrow account for the benefit of Holders of Allowed Convenience Claims in an amount equal to the Convenience Claims Estimate.

**1.32 Convenience Claims Estimate:** As of the Effective Date, the amount estimated by the Debtors in consultation with the Committee, to be distributed on account of all unpaid Convenience Claims that will be Allowed Convenience Claims.

**1.33 Creditor:** Any Holder of a Claim.

**1.34 Committee:** The Official Committee of Unsecured Creditors appointed by the U.S. Trustee in these Chapter 11 Cases, as it may be reconstituted from time to time.

**1.35 Debtor or Debtors:** Individually and collectively, Welded Construction, L.P. and Welded Construction Michigan, LLC.

**1.36 Disclosure Statement:** The *Amended Disclosure Statement for the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, dated as of May 4, 2020, and all exhibits thereto, as the same may be amended, modified or supplemented.

**1.37 Disclosure Statement Order:** The Final Order of the Bankruptcy Court [D.I. 1362] approving the Disclosure Statement as containing adequate information, pursuant to section 1125(a) of the Bankruptcy Code, and authorizing the Debtors to solicit acceptances of this Plan.

**1.38 Disputed Claim:** Any Claim: (i) listed on the Schedules as unliquidated, disputed or contingent, unless a proof of claim has been Filed in a liquidated and non-contingent amount; (ii) included in a proof of claim as to which an objection or request for estimation has been filed, or as to which the Debtors or the Post-Effective Date Debtors, as applicable, or other parties in interest in accordance with applicable law retain the ability to interpose a timely objection or request for estimation in accordance with the Bankruptcy Code, the Bankruptcy Rules, this Plan and the Confirmation Order; or (iii) which is otherwise disputed by Debtors or the Post-Effective Date Debtors, as applicable, in accordance with applicable law and for which the objection, request for estimation, or dispute has not been withdrawn or determined by a Final Order. To the extent that a Claim is held by a Holder that is or may be liable to the Debtors, the Estates or the Post-Effective Date Debtors on account of a Retained Cause of Action, such Claim shall be a Disputed Claim unless and until such Retained Cause of Action has been settled or withdrawn or has been determined by a Final Order.

**1.39 Disputed Claims Reserve:** The reserve established and maintained by the Plan Administrator, pursuant to and in accordance with the terms of the Plan Administrator Agreement for the payment of Disputed General Unsecured Claims that become Allowed Claims after the Effective Date. The Disputed Claims Reserve need not be maintained by the Plan Administrator in a segregated account.

**1.40 Distribution:** The transfer of Cash or other property by the Post-Effective Date Debtors under this Plan to the Holders of Allowed Claims.

**1.41 Effective Date:** The date that is the first Business Day on which each condition set forth in Article IX of this Plan has been satisfied or waived as set forth therein.

**1.42 Entity:** Shall have the meaning set forth in section 101(15) of the Bankruptcy Code. Unless otherwise specified herein, any reference to an Entity as a Holder of a Claim or Interest includes such Entity's successors, assigns and affiliates.

**1.43 Estates:** The chapter 11 estates of the Debtors created pursuant to section 541 of the Bankruptcy Code.

**1.44 Estates' Share:** The Williams Litigation Proceeds allocable to the Estates in accordance with the Surety Cooperation Agreement Order.

**1.45 Exculpated Parties:** Each of, solely in their capacities as such, and solely in connection with Section 11.12 of this Plan: (a) the Debtors, the Estates and the Post-Effective Date Debtors; (b) the Debtors' officers, general partners (Bechtel GP and McCaig LP), limited partners (Bechtel LP and McCaig LP) and managers; (c) the Professionals retained by the Debtors pursuant to an Order of the Bankruptcy Court, including Zolfo Cooper Management, LLC and AlixPartners, LLP (as applicable); (d) the Committee; (e) the present and former members of the Committee, but solely in their capacity as members of the Committee (including ex officio members); and (f) the Professionals retained by the Committee pursuant to an Order of the Bankruptcy Court.

**1.46 File, Filed or Filing:** File, filed or filing with the Bankruptcy Court or its authorized designee in these Chapter 11 Cases.

**1.47 Face Amount:** When used in reference to an Allowed Claim, the amount of such Claim that is Allowed, and, when used in reference to a Disputed Claim, (a) the liquidated amount set forth in the proof of claim or request for payment relating to the Disputed Claim (if any); (b) an amount agreed to by the Post-Effective Date Debtors and the Holder of the Disputed Claim; or (c) if a request for estimation is Filed with respect to such Disputed Claim, the amount at which such Disputed Claim is estimated by the Bankruptcy Court.

**1.48 Final Decree:** The Order entered pursuant to section 350 of the Bankruptcy Code, Bankruptcy Rule 3022 and Local Rule 3022-1 closing a Chapter 11 Case.

**1.49 Final Order:** An order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, that is not subject to stay or appeal, and for which the applicable time within which to take such action has expired, or for which such actions has been adjudicated by the highest court with jurisdiction over the matter.

**1.50 First Administrative Claim Bar Date:** April 30, 2019 at 5:00 p.m. (Eastern Time), which is the deadline set pursuant to the *Order (I) Establishing Bar Dates for Filing Administrative Expense Claims, Other Than 503(b)(9) Claims, and (II) Approving the Form and Manner of Notice Thereof* [D.I. 554] for filing requests for Administrative Claims, other than Section 503(b)(9) Claims, arising on or after the Petition Date through and including March 31, 2019.

**1.51 General Unsecured Claim:** Any unsecured, non-priority Claim against the Debtors or the Estates that is not a Surety Bond Claim, a Convenience Claim or a Subordinated Claim.

**1.52 General Unsecured Claim Distribution:** The aggregate amount of Cash or proceeds realized from the Assets of the Debtors' Estates, including, without limitation, the proceeds from the recovery of any Retained Causes of Action (inclusive of the Estates' Share, but excluding the Surety Bond Share), available for Distribution Pro Rata to holders of Allowed General Unsecured Claims, after the payment, or appropriate reserves have been established, in full satisfaction of wind-down costs, Allowed Unclassified Claims, Allowed Secured Claims and Allowed Priority Claims.

**1.53 GP Interests:** The general partnership interests of Bechtel GP and McCaig GP in Welded Construction, L.P., as set forth in the Partnership Agreement.

**1.54 Holder:** The Person that is the owner of record of a Claim or Interest, as applicable.

**1.55 Impaired:** Any Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

**1.56 Indemnity Agreement:** That certain Indemnity Agreement, dated on or about June 18, 2020, by and between Bechtel Global Corporation and Debtor Welded Construction, L.P., which is attached to and made an integral part of the Plan Settlement Agreement, which agreement provides certain indemnification to the Debtors and the Post-Effective Date Debtors on the terms and conditions provided for therein.

**1.57 Initial Distribution:** The Distributions made to Holders of Allowed Claims as soon as practicable after the Effective Date in accordance with the terms of this Plan.

**1.58 Insurance Contract:** All insurance policies that have been issued at any time to or provide coverage to any of the Debtors and all agreements, documents or instruments relating thereto.

**1.59 Insured Claim:** Any Claim or portion of a Claim (other than a Claim held by (1) a Holder of a Surety Bond Claim; or (2) an employee of the Debtors for workers' compensation coverage under the workers' compensation program applicable in the particular state in which the employee is employed by the Debtors) that is insured under any Insurance Contract, but only to the extent of such coverage.

**1.60 Insurer:** Any company or other entity that issued an Insurance Contract, any third party administrator, and any respective predecessors and/or affiliates thereof.

**1.61 Interests:** All previously issued and outstanding limited liability company membership interests, partnership units or other interests in the Debtors outstanding immediately prior to the Effective Date, including, without limitation, treasury stock and all options, warrants, calls, rights, puts, awards, commitments or any other agreements of any character to convert, exchange, exercise for or otherwise receive such limited liability company membership interests, partnership units or other interests, except for the GP Interests and the LP Interests.

**1.62 Intercompany Claim:** Any Claim, of whatever nature and arising at whatever time, held by one Debtor against another Debtor.

**1.63 Litigation Funding Reimbursement:** The reimbursement of the funds advanced for prosecution of the Williams Litigation to the Surety and the Estates (if applicable) from the Williams Litigation Proceeds in accordance with the Surety Cooperation Agreement Order.

**1.64 Lien:** Any lien, security interest, pledge, title retention agreement, encumbrance, charge, mortgage or hypothecation to secure payment of a debt or performance of an obligation, other than, in the case of securities and any other equity ownership interests, any restrictions imposed by applicable United States or foreign securities laws.

**1.65 Local Rules:** The Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, as amended from time to time.

**1.66 LP Act:** Delaware Revised Uniform Limited Partnership Act.

**1.67 LP Interests:** The limited partnership interests of Bechtel LP and McCaig LP in Welded Construction, L.P., as set forth in the Partnership Agreement.

**1.68 McCaig GP:** McCaig Welded GP, LLC.

**1.69 McCaig LP:** McCaig US Holdings, Inc.

**1.70 Order:** An order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in any of these Chapter 11 Cases or the docket of any other court of competent jurisdiction.

**1.71 Ordinary Course Professional:** Any OCP, as that term is defined in that certain *Order Authorizing the Debtors to Retain, Employ, and Compensate Certain Professionals Utilized in the Ordinary Course of Business, Effective as of the Petition Date* [D.I. 231].

**1.72 Ordinary Course Professional Fee Claim:** A Claim of an Ordinary Course Professional for compensation or reimbursement of costs and expenses relating to services incurred during the period from the Petition Date through and including the Effective Date.

**1.73 Partner Settlement Parties:** Bechtel GP, Bechtel LP, Bechtel Corporation, Bechtel Global Corporation, Bechtel Oil, Gas and Chemicals, Inc., Bechtel Equipment Operation Inc., Bechtel Power Corporation, McCaig GP, and McCaig LP and each of their respective non-Debtor Related Parties.

**1.74 Partnership:** Welded Construction, L.P.

**1.75 Partnership Agreement:** That certain *Second Amended and Restated Limited Partnership Agreement of Welded Construction, L.P.*, dated December 1, 2015, as amended, modified or supplemented from time to time in accordance with its terms.

**1.76 Person:** An individual or Entity, limited liability company, corporation, partnership, association, trust or unincorporated organization, joint venture or other person or a government or any agency or political subdivision thereof.

**1.77 Petition Date:** October 22, 2018, the date on which the Debtors Filed their voluntary chapter 11 petitions for relief in the Bankruptcy Court.

**1.78 Plan:** This *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, dated as of May 4, 2020, and all exhibits thereto, including, without limitation, the Plan Settlement Agreement, and any Plan Supplement, as the same may be amended, modified or supplemented.

**1.79 Plan Administrator:** Such person or entity designated by the Committee, in consultation with the Debtors and Federal Insurance Company, prior to the Confirmation Date and approved by the Bankruptcy Court pursuant to the Confirmation Order to (a) administer this Plan in accordance with its terms and the Plan Administrator Agreement; (b) to be the sole officer and/or responsible Person for the Debtors and Post-Effective Date Debtors from and after the Effective Date; and (c) take such other actions as may be authorized under this Plan and the Plan Administrator Agreement, and any successor thereto. In addition, the Plan Administrator shall be deemed to be the Liquidating Trustee under the Delaware Revised Uniform Limited Partnership Act (6 Del. C. Sections 17–101, *et seq.*).

**1.80 Plan Administrator Agreement:** The agreement by and among the Debtors, the Post-Effective Date Debtors and the Plan Administrator specifying the rights, duties and responsibilities of the Plan Administrator under this Plan.

**1.81 Plan Administrator Professionals:** The agents, financial advisors, attorneys, consultants, independent contractors, representatives and other professionals of the Plan Administrator or the Post-Effective Date Debtors (in each case, solely in their capacities as such).

**1.82 Plan Administrator Professional Fees:** The reasonable fees and expenses of the Plan Administrator Professionals employed by the Plan Administrator.

**1.83 Plan Oversight Committee:** The Holders of General Unsecured Claims or Surety Bond Claims appointed by the Committee and Federal Insurance Company, in consultation with the Debtors, as set forth in Section 5.6 of this Plan and identified in the Plan Administrator Agreement, which shall have the authority set forth in the Plan and the Plan Administrator Agreement.

**1.84 Plan Oversight Committee Chairperson:** Federal Insurance Company.

**1.85 Plan Oversight Committee Members:** The members of the Plan Oversight Committee appointed pursuant to this Plan and the Confirmation Order, solely in their capacities as such.

**1.86 Plan Settlement or Plan Settlement Agreement:** That certain Settlement Agreement, dated on or about June 18, 2020, by and between the Plan Settlement Parties, which is incorporated herein and annexed hereto as **Exhibit A**, which agreement resolves various disputes, provides valuable consideration to the Debtors and the Estates, including the indemnification rights set forth in the Indemnity Agreement, and grants certain releases on the terms and conditions provided for therein.

**1.87 Plan Settlement Parties:** The Debtors, the Committee and the Partner Settlement Parties.

**1.88 Plan Settlement Payment:** The \$2,000,000 Cash payment from the Partner Settlement Parties in accordance with the terms of the Plan Settlement Agreement.

**1.89 Plan Supplement:** The ancillary documents necessary to the implementation and effectuation of this Plan, including the Plan Administrator Agreement, which shall be Filed on or before the date that is seven (7) days prior to the Voting Deadline.

**1.90 Post-Effective Date Debtors:** The Debtors, on and after the Effective Date.

**1.91 Preference Actions:** Any and all avoidance or recovery actions under section 547 of, and otherwise under, the Bankruptcy Code or any similar federal, state or common law causes of action not otherwise waived or released under this Plan, the Confirmation Order, or any other Final Order.

**1.92 Priority Claim:** A Claim that is entitled to priority under section 507(a) of the Bankruptcy Code, other than an Administrative Claim and a Priority Tax Claim.

**1.93 Priority Tax Claim:** A Claim that is entitled to priority under section 507(a)(8) of the Bankruptcy Code.

**1.94 Professional:** Any professional (other than an Ordinary Course Professional) employed in the Chapter 11 Cases pursuant to sections 327, 328, 1103 or 1104 of the Bankruptcy Code or any professional or other Person (in each case, other than an Ordinary Course Professional) seeking compensation or reimbursement of expenses in connection with these Chapter 11 Cases pursuant to section 503(b)(3) or 503(b)(4) of the Bankruptcy Code.

**1.95 Professional Fee Claim:** A Claim of a Professional for compensation or reimbursement of costs and expenses relating to services incurred during the period from the Petition Date through and including the Effective Date.

**1.96 Professional Fee Reserve:** The reserve established and funded by the Debtors, in consultation with the Committee, pursuant to Section 11.2 of this Plan.

**1.97 Pro Rata:** The proportion that the Allowed Claim in a particular Class bears to the aggregate amount of (a) Allowed Claims in such Class as of the date of determination, plus (b) Disputed Claims in such Class as of the date of determination, in their aggregate Face Amounts or such other amount: (i) as calculated by the Post-Effective Date Debtors on or before the date of any such Distribution; (ii) as determined by an Order of the Bankruptcy Court estimating such Disputed Claim; or (iii) as directed by a Final Order of the Bankruptcy Court.

**1.98 Rejection Claim:** Any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to this Plan and the Confirmation Order.

**1.99 Related Parties:** With respect to any Person or Entity, such Person's or Entity's current and former (i) officers, (ii) managers, (iii) directors, (iv) employees, (v) lenders, (vi) partners, (vii) affiliates, (iv) professionals, (v) advisors, (vi) agents, (vii) members, (viii) shareholders, and (ix) other representatives, including, without limitation, attorneys, accountants, consultants, investment bankers and financial advisors and the successors, assigns or heirs of such Person or Entity.

**1.100 Released Parties:** Each solely in their capacities as such, (a) the Debtors and their Estates; (b) the Debtors' current and former officers and managers; (c) the Partner Settlement Parties; and (d) to the extent not included in the foregoing, each of the preceding entities' respective Related Parties.

**1.101 Release Opt-Out:** The item set forth in the Ballots, due by the Voting Deadline, pursuant to which Holders of Claims in Classes 4 and 5 that vote to accept or reject this Plan may opt out of the releases set forth in Section 11.11(b) of this Plan.

**1.102 Releasing Parties:** (a) all Holders of Claims deemed hereunder to have accepted this Plan (i.e., Holders of Claims in Unimpaired Classes of Claims) that have not Filed an objection to the release in Section 11.11(b) of this Plan prior to the deadline to object to Confirmation of this Plan; and (b) all Holders of Claims in Classes 4 and 5 that (i) vote to accept or reject this Plan and do not timely submit a Release Opt-Out indicating such Holder's decision to not participate in the releases set forth in Section 11.11(b) of this Plan, or (ii) do not vote to accept or reject this Plan, and either do not timely submit a Release Opt-Out, or do not File an objection to the releases in Section 11.11(b) of this Plan prior to the deadline to object to Confirmation of this Plan.

**1.103 Retained Causes of Action:** All rights, including rights of setoff and rights of recoupment, refunds, claims, counterclaims, demands, Causes of Action, and rights to collect damages of the Debtors against third parties, including, without limitation: (a) the Williams Litigation; (b) Schmid Pipeline Construction, Inc. and its Related Parties; (c) Columbia Gas Transmission, LLC and its Related Parties; (d) Earth Pipeline Services, Inc. and its Related Parties; (e) all litigation, arbitration or other types of adversarial or dispute resolution proceeding disclosed on the Debtors'

Schedules and the Debtors' *Statements of Financial Affairs*; and (f) all litigation, arbitration or other types of adversarial or dispute resolution proceedings arising in law, equity or pursuant to any other theory of law and all other rights (including, without limitation, defenses, cross-claims and counter-claims), regardless of whether they (or the facts underlying them) were disclosed in the Debtors' Schedules, their *Statements of Financial Affairs* or otherwise during these Chapter 11 Cases, against or related to any party that (i) owed to the Debtors or their Estates (or any of them) a fiduciary, contractual or statutory duty, whether imposed by law or in equity; (ii) committed a tort or other unlawful or actionable conduct against or related to the Debtors or their Estates (or any of them); and (iii) received a payment, obligation or other consideration from the Debtors or their Estates (or any of them) that may be avoided under chapter 5 of the Bankruptcy Code and other similar state law claims and causes of action, but excluding all rights, including rights of setoff and rights of recoupment, refunds, claims, counterclaims, demands, and rights to collect damages of the Debtors against third parties released or waived under this Plan, the Confirmation Order or any Final Order, including, without limitation, pursuant to the Plan Settlement.

**1.104 Schedules:** The Schedules of Assets and Liabilities Filed by the Debtors, as such Schedules may be amended from time to time in accordance with Bankruptcy Rule 1009.

**1.105 Section 503(b)(9) Claim:** A Claim that is entitled to priority under section 503(b)(9) of the Bankruptcy Code.

**1.106 Secured Claim:** A Claim that is (i) secured by a valid, perfected and enforceable Lien on property in which the Debtors or the Estates have an interest that is not subject to avoidance, or (ii) subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Creditor's interest in such property or to the extent of the amount subject to setoff, as applicable, all as determined pursuant to sections 506(a) and 1111(b) of the Bankruptcy Code and other applicable law.

**1.107 Subordinated Claim:** Any Claim or Interest that is subordinated to Surety Bond Claims, Convenience Claims and General Unsecured Claims pursuant to section 510 of the Bankruptcy Code or Final Order of the Bankruptcy Court.

**1.108 Subsidiary:** Welded Construction Michigan, LLC.

**1.109 Surety Bond Claim:** Claims scheduled in the Schedules for, or asserted against the Debtors by, Federal Insurance Company on the basis of the Debtors' indemnification obligations or the like under a surety bond other than claims that are entitled to treatment as Administrative Claims or Priority Claims.

**1.110 Surety Bond Share:** The Williams Litigation Proceeds allocable to the Allowed Surety Bond Claim in accordance with the Surety Cooperation Agreement Order.

**1.111 Surety Cooperation Agreement Order:** That certain *Order Approving Litigation Funding and Cooperation Agreement* [D.I. 745], annexed hereto as **Exhibit B**.

**1.112 Unimpaired:** Any Class of Claims that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.



**1.113 Unclassified Claims:** Any Administrative Claims, Professional Fee Claims and Priority Tax Claims.

**1.114 U.S. Trustee:** The Office of the United States Trustee for the District of Delaware.

**1.115 Voting Deadline:** The date and time by which all Ballots to accept or reject this Plan must be received to be counted as set by the Disclosure Statement Order.

**1.116 Williams Litigation:** That certain litigation styled as *Welded Construction, L.P. v. Williams Co., Inc., et al.*, Adv. Pro. 19-50194 (CSS).

**1.117 Williams Litigation Proceeds:** Any recovery by the Estates resulting from a judgment in or settlement of the Williams Litigation.

## **ARTICLE II**

### **CLASSIFICATION OF CLAIMS AND INTERESTS**

**2.1 Unclassified Claims.** Holders of the following Claims are not entitled to vote on this Plan:

1. *Administrative Claims*
2. *Professional Fee Claims*
3. *Priority Tax Claims*

**2.2 Unimpaired Classes of Claims.** Holders of Claims in the following Unimpaired Classes of Claims are deemed to have accepted this Plan and, therefore, are not entitled to vote on this Plan:

1. *Secured Claims (Class 1)*
2. *Priority Claims (Class 2)*

**2.3 Impaired/Voting Class of Claims.** Holders of Claims in the following Impaired Class of Claims are entitled to vote on this Plan:

1. *Surety Bond Claims (Class 3)*
2. *General Unsecured Claims (Class 4)*
3. *Convenience Claims (Class 5)*

**2.4 Impaired/Non-Voting Classes of Claims and Interests.** Holders of Claims and Interests in the following Impaired Classes of Claims and Interests are deemed to have rejected this Plan and, therefore, are not entitled to vote on this Plan:

1. *Subordinated Claims (Class 6)*
2. *Interests (Class 7)*

### **ARTICLE III**

#### **TREATMENT OF CLAIMS AND INTERESTS**

##### **3.1 Unclassified Claims.**

**3.1.1 Administrative Claims.** Except as otherwise provided for herein, the Confirmation Order, or separate order of the Bankruptcy Court, on, or as soon as reasonably practicable after, the later of (i) the Effective Date and (ii) thirty (30) days following the date on which an Administrative Claim becomes an Allowed Administrative Claim, the Holder of such Allowed Administrative Claim shall receive from the Post-Effective Date Debtors, in full satisfaction of such Allowed Administrative Claim, (a) Cash equal to the unpaid portion of the Face Amount of such Allowed Administrative Claim or (b) such other less favorable treatment as to which such Holder and the Post-Effective Date Debtors shall have agreed upon in writing.

**3.1.2 Professional Fee Claims.** Professional Fee Claims shall be paid by the Post-Effective Date Debtors as set forth in Section 11.2 of this Plan.

**3.1.3 Priority Tax Claims.** In full satisfaction of such Claims, Holders of Allowed Priority Tax Claims shall be paid by the Post-Effective Date Debtors, at the Post-Effective Date Debtors' discretion, as follows: (a) Cash equal to the unpaid portion of the Face Amount of such Allowed Priority Tax Claim on the later of the Effective Date or thirty (30) days following the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim; (b) in regular installment payments in Cash over a period not exceeding five (5) years after the Petition Date, plus interest on the unpaid portion thereof at the rate determined under applicable non-bankruptcy law as of the calendar month in which the Confirmation Date occurs; and (c) such other treatment as to which the Holder of an Allowed Priority Tax Claim and the Post-Effective Date Debtors shall have agreed upon in writing.

##### **3.2 Unimpaired Classes of Claims.**

**3.2.1 Class 1: Secured Claims.** On, or as soon as reasonably practicable after, the later of (i) the Effective Date and (ii) thirty (30) days following the date on which a Secured Claim becomes an Allowed Secured Claim, the Holder of such Allowed Secured Claim shall receive from the Post-Effective Date Debtors, at the discretion of the Post-Effective Date Debtors, in full satisfaction of such Allowed Secured Claim, (i) Cash equal to the value of such Claim; (ii) the return of the Holder's Collateral securing such Claim; (iii) such Claim reinstated pursuant to sections 1124(1) or 1124(2) of the Bankruptcy Code; or (iv) such other less favorable treatment as to which such Holder and the Post-Effective Date Debtors shall have agreed upon in writing.

*Class 1 is Unimpaired, and therefore Holders of Secured Claims are conclusively presumed to have accepted this Plan.*

**3.2.2 Class 2: Priority Claims.** On, or as soon as reasonably practicable after, the later of (i) the Effective Date and (ii) thirty (30) days following the date on which a Priority Claim becomes an Allowed Priority Claim, the Holder of such Allowed Priority Claim shall receive from the Post-Effective Date Debtors, in full satisfaction of such Allowed Priority Claim, either (i) Cash equal to the unpaid portion of the Face Amount of such Allowed Priority Claim; or (ii) such other less favorable treatment as to which such Holder and the Post-Effective Date Debtors shall have agreed upon in writing. *Class 2 is Unimpaired, and therefore Holders of Priority Claims are conclusively presumed to have accepted this Plan.*

### **3.3 Impaired/Voting Classes of Claims.**

**3.3.1 Class 3: Surety Bond Claims.** On, or as soon as reasonably practicable after, the Effective Date, the Holder of any Allowed Surety Bond Claim shall receive from the Post-Effective Date Debtors, in full satisfaction of such Allowed Surety Bond Claim, (i) the Surety Bond Share and its Pro Rata share of the General Unsecured Claim Distribution (i.e. Pro Rata on a combined dollar for dollar basis with the Holders of Allowed Class 4 Claims); or (ii) such other less favorable treatment as to which such Holder and the Post-Effective Date Debtors shall have agreed upon in writing. *Class 3 is Impaired, and therefore Holders of Surety Bond Claims are entitled to vote on this Plan.*

**3.3.2 Class 4: General Unsecured Claims.** On, or as soon as reasonably practicable after, the Effective Date, the Holder of an Allowed General Unsecured Claim shall receive from the Post-Effective Date Debtors, in full satisfaction of such Allowed General Unsecured Claim, (i) its Pro Rata share of the General Unsecured Claim Distribution (i.e. Pro Rata on a combined dollar for dollar basis with the Holder of the Allowed Class 3 Claim), or (ii) such other less favorable treatment as to which such Holder and the Post-Effective Date Debtors shall have agreed upon in writing. *Class 4 is Impaired, and therefore Holders of General Unsecured Claims are entitled to vote on this Plan.*

**3.3.3 Class 5: Convenience Claims.** On, or as soon as reasonably practicable after, the Effective Date, the Holder of an Allowed Convenience Claim shall receive from the Post-Effective Date Debtor, in full satisfaction of such Allowed Convenience Claim, Cash equal to 50% of the amount of such Allowed Convenience Claim, up to a maximum recovery of \$50,000. *Class 5 is Impaired, and therefore Holders of Convenience Claims are entitled to vote on this Plan.*

### **3.4 Impaired/Non-Voting Classes of Claims and Interests.**

**3.4.1 Class 6: Subordinated Claims.** On the Effective Date, Holders of Subordinated Claims shall not be entitled to, and shall not receive or retain any property or interest in property under this Plan on account of such Subordinated Claims. *Class 6 is deemed to have rejected this Plan, and therefore Holders of Subordinated Claims are not entitled to vote on this Plan.*

**3.4.2 Class 7: Interests.** As of the Effective Date, all Interests of any kind, including, without limitation, the GP Interests and LP Interests, shall be deemed cancelled, and the Holders thereof shall not receive or retain any property, interest in property or consideration under this Plan on account of such Interests. *Class 7 is deemed to have rejected this Plan, and therefore Holders of Interests are not entitled to vote on this Plan.*

**3.5 Special Provisions Regarding Insurance.** Notwithstanding anything to the contrary in the Disclosure Statement, the Plan, the Plan Supplement, the Confirmation Order, any bar date notice or claim objection, any other document related to any of the foregoing, or any other order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction, discharge or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any releases):

(a) subject to Section 3.5(e) below, on the Effective Date, the Insurance Contracts shall vest, unaltered and in their entirety with the Post-Effective Date Debtors, and all debts, obligations, and liabilities of the Debtors (and, after the Effective Date, of the Post-Effective Date Debtors) thereunder, whether arising before or after the Effective Date, shall survive and shall not be amended, modified, waived, released, discharged or impaired in any respect, all such debts, obligations, and liabilities of the Debtors (and, after the Effective Date, of the Post-Effective Date Debtors) shall be satisfied by the Post-Effective Date Debtors in the ordinary course of business, and the Insurers shall not need to or be required to file or serve any objection to a proposed cure amount or a request, application, Claim, proof or motion for payment or allowance of any Claim or Administrative Claim and shall not be subject to any bar date or similar deadline governing cure amounts, proofs of Claim or Administrative Claims;

(b) for the avoidance of doubt, subject to the automatic stay under section 362 of the Bankruptcy Code and the injunction under Section 11.10 of this Plan, if there is available insurance, any party with rights against or under the applicable Insurance Contract, including, without limitation, the Estates, the Post-Effective Date Debtors and Holders of Insured Claims, may pursue such rights, and the Post-Effective Date Debtors may, but shall not be required to, move to limit an Insured Claim to the Face Amount of such Insured Claim less the total coverage available with respect to that Insured Claim under the Insurance Contracts; provided, however, that doing so in no way obligates an Insurer to pay any portion of the Insured Claim or otherwise alters an Insurer's coverage defenses; provided further, however, that, subject to Section 3.5(e) below, nothing alters or modifies the duty, if any, that Insurers have to pay Insured Claims covered by the Insurance Contracts and the Insurers' right to seek payment or reimbursement from the Debtors (or after the Effective Date, the Post-Effective Date Debtors); provided finally, however, the automatic stay of Bankruptcy Code section 362(a) and the injunctions set forth in Article XI of the Plan, if and to the extent applicable, shall be deemed lifted without further order of the Bankruptcy Court, solely to permit: (I) all current and former employees of the Debtors to proceed with any valid workers compensation claims they might have in the appropriate judicial or administrative forum; (II) direct action claims against an Insurer under applicable non-bankruptcy law to proceed with their claims; (III) the Insurers to administer, handle, defend, settle, and/or pay, in the ordinary course of business and without further order of the Bankruptcy Court, (A) any valid workers compensation claims, (B) claims where a claimant asserts a direct claim against any Insurer under applicable non-bankruptcy law, or an order has been entered by the Bankruptcy Court granting a claimant relief from the automatic stay to proceed with its Insured Claim, and (C) all costs in

relation to each of the foregoing; and (IV) the Insurers to cancel any Insurance Contracts, to the extent permissible under applicable non-bankruptcy and bankruptcy law, and in accordance with the terms of the Insurance Contracts (other than on the basis of any outstanding pre-petition claims against the Debtors, their Estates or the Post-Effective Date Debtors arising from or related to such Insurance Contracts);

(c) nothing in this Section 3.5 shall constitute a waiver of any causes of action the Debtors, their Estates or the Post-Effective Date Debtors may hold against any Entity, including any Insurers. Nothing in this Section 3.5 is intended to, shall or shall be deemed to preclude any Holder of an Allowed Insured Claim from seeking and/or obtaining a recovery from any Insurer in addition to (but not in duplication of) any Distribution such Holder may receive under this Plan; provided, however, that the Debtors, their Estates, and the Post-Effective Date Debtors do not waive, and expressly reserve their rights to assert that the proceeds of the Insurance Contracts are an Asset and property of the Estates to which they are entitled to the extent that the Debtors are entitled to assert first-party claims pursuant to the terms and conditions of the applicable Insurance Contract;

(d) subject to Section 3.5(e) below, nothing shall modify the scope of, or alter in any other way, the rights and obligations of the Insurers, the Debtors (or, after the Effective Date, the Post-Effective Date Debtors), or any other individual or entity, as applicable, under the Insurance Contracts, and all such rights and obligations shall be determined under the Insurance Contracts and applicable non-bankruptcy law as if the Chapter 11 Cases had not occurred, and, for the avoidance of doubt, the Insurers shall retain any and all rights, claims and defenses to liability and/or coverage that they have under the Insurance Contracts, including the right to contest and/or litigate with any party, including the Debtors and the Post-Effective Date Debtors, the existence, primacy and/or scope of liability and/or available coverage under any alleged applicable Insurance Contract; and

(e) any payment, pecuniary, reimbursement or other financial or monetary obligations of the Debtors, their Estates or the Post-Effective Date Debtors owing to the Insurers under the Insurance Contracts, including, but not limited to, reimbursement for payments within a deductible, shall be satisfied solely from existing collateral and/or security, if any, held by the Insurers in the ordinary course and pursuant to the terms of the Insurance Contracts, and to the extent that any such collateral and/or security is insufficient to satisfy any such obligations, the Insurers shall have no recourse to the Debtors, their Estates or the Post-Effective Date Debtors, and hereby waive any and all claims against, and rights to a Distribution from, the Debtors, their Estates and the Post-Effective Date Debtors; *provided, however*, that nothing in this Section 3.5(e) shall modify the scope of, or alter in any other way, the rights of the Insurers to assert any setoff and recoupment rights.

**3.6 Provision Governing Allowance and Defenses to Claims.** On and after the Effective Date, the Post-Effective Date Debtors shall have all of the Debtors' and the Estates' rights under section 558 of the Bankruptcy Code. Nothing under this Plan shall affect the rights and defenses of the Debtors, the Estates and the Post-Effective Date Debtors in respect of any Claim not Allowed by Final Order, including all rights in respect of legal and equitable objections, defenses, setoffs or recoupment against such Claims. The Post-Effective Date Debtors may, but shall not be required to, setoff against any Claim (for purposes of determining the Allowed amount of such

Claim on which Distribution shall be made) any claims of any nature whatsoever that the Estates or the Post-Effective Date Debtors may have against the Claim Holder, including, without limitation, Avoidance Actions and Preference Actions, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Post-Effective Date Debtors of any such Claim it may have against such Claim Holder. The Post-Effective Date Debtors may (i) designate any Claim as Allowed at any time from and after the Effective Date and (ii) may designate any Claim as a Disputed Claim and not Allowed at any time from and after the Effective Date until the Claim Objection Deadline.

## **ARTICLE IV**

### **ACCEPTANCE OR REJECTION OF THIS PLAN**

**4.1 Impaired Class of Claims Entitled to Vote.** Only the votes of Holders of Claims in Classes 3, 4 and 5 shall be solicited with respect to this Plan.

**4.2 Acceptance by an Impaired Class.** In accordance with section 1126(c) of the Bankruptcy Code, and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class shall have accepted this Plan if this Plan is accepted by the Holders of at least two-thirds ( $\frac{2}{3}$ ) in dollar amount and more than one-half ( $\frac{1}{2}$ ) in number of the Claims allowed for purposes of Plan voting pursuant to the Disclosure Statement Order that have timely and properly voted to accept or reject the Plan.

**4.3 Presumed Acceptances by Unimpaired Classes.** Class 1 and Class 2 are Unimpaired under this Plan. *Under section 1126(f) of the Bankruptcy Code, the Holders of Claims in such Unimpaired Classes are conclusively presumed to have accepted this Plan, and therefore the votes of the Holders of such Claims shall not be solicited.*

**4.4 Impaired Classes Deemed to Reject Plan.** Holders of Subordinated Claims and Interests in Class 6 and Class 7 are not entitled to receive or retain any property or interests in property under this Plan. *Under section 1126(g) of the Bankruptcy Code, such Holders are deemed to have rejected this Plan, and therefore the votes of such Holders shall not be solicited.*

**4.5 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.** Because at least one Impaired Class is deemed to have rejected this Plan, the Debtors will request Confirmation of this Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan, the Plan Supplement or any schedule or exhibit, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

**4.6 Elimination of Vacant Classes.** Any Class of Claims that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of a Claim allowed for purposes of Plan voting pursuant to the Disclosure Statement Order shall be deemed eliminated from this Plan for purposes of determining acceptance of this Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.



## ARTICLE V

### **IMPLEMENTATION OF THIS PLAN AND THE PLAN ADMINISTRATOR**

**5.1 Implementation of this Plan.** This Plan will be implemented by, among other things, the approval of the Plan Settlement Agreement and Indemnity Agreement, the appointment of the Plan Administrator, the formation of the Plan Oversight Committee, and the making of Distributions from the Assets, including, without limitation, all Cash, the Plan Settlement Payment, and the proceeds, if any, from the Retained Causes of Action, by the Post-Effective Date Debtors in accordance with this Plan and the Plan Administrator Agreement.

Except as otherwise provided in this Plan, on and after the Effective Date, all Assets of the Estates, including all claims, rights, Retained Causes of Action and any property acquired by the Debtors under or in connection with this Plan, including as a result of the Plan Settlement, shall vest in the Post-Effective Date Debtor Welded Construction, L.P., free and clear of all Claims, Liens, charges, other encumbrances and Interests subject to the substantive consolidation provided for herein.

**5.2 Substantive Consolidation for Plan Purposes Only.** Except as otherwise provided in this Plan, each Debtor shall continue to maintain its separate corporate existence after the Effective Date for all purposes, other than the treatment of Claims and Distributions under this Plan. Except as expressly provided in this Plan (or as otherwise ordered by the Bankruptcy Court), on the Effective Date for purposes of voting to accept or reject this Plan and Distributions: (i) the Assets and liabilities of the Debtors shall be deemed merged or treated as though they were merged into and with the Assets and liabilities of Debtor Welded Construction, L.P.; (ii) all guaranties of the Debtors of the obligations of any other Debtor shall be deemed eliminated and extinguished so that any Claim against any Debtor, and any guarantee thereof executed by any Debtor and any joint or several liability of any of the Debtors shall be deemed to be one obligation of Debtor Welded Construction, L.P.; (iii) each and every Claim filed or to be filed in either of the Chapter 11 Cases shall be treated as filed against the consolidated Debtors and shall be treated as one Claim against and obligation of Welded Construction, L.P.; (iv) all Intercompany Claims shall be eliminated and extinguished, and holders of Intercompany Claims shall not receive any Distributions or retain any property pursuant to this Plan on account of such Intercompany Claims; and (v) for purposes of determining the availability of the right of setoff under section 553 of the Bankruptcy Code, the Debtors shall be treated as one entity, Welded Construction, L.P., so that, subject to the other provisions of section 553 of the Bankruptcy Code, debts due to any of the Debtors may be set off against the debts of any of the other Debtors. Such substantive consolidation shall not (other than for purposes relating to this Plan) affect the legal and corporate structures of the Post-Effective Date Debtors. Moreover, such substantive consolidation shall not affect any subordination provisions set forth in any agreement relating to any Claim or Interest or the ability of the Post-Effective Date Debtors to seek to have any Claim or Interest subordinated in accordance with any contractual rights or equitable principles. Notwithstanding anything in this section to the contrary, all post-Effective Date fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930, if any, shall be calculated on a separate legal entity basis for each Post-Effective Date Debtor.

### **5.3 The Debtors' Post-Effective Date Corporate Affairs.**

**5.3.1 Debtors' Officers and Managers.** On the Effective Date, each of the Debtors' officers and managers shall be terminated automatically without the need for any corporate action or approval and without the need for any corporate filings, and shall have no continuing obligations to the Debtors following the occurrence of the Effective Date.

### **5.4 Dissolution and Cancellation of the Debtors.**

(a) Welded Construction Michigan, LLC. On the Effective Date, the Plan Administrator will be appointed to manage the Subsidiary in consultation with the Plan Oversight Committee, in accordance with this Plan and the Plan Administrator Agreement. Following the implementation of this Plan, the administration and distribution of the Debtors' Assets in accordance with the terms of this Plan, and the winding down of the Subsidiary's affairs, without the need for any further order or action of the Bankruptcy Court, the Subsidiary will be dissolved and its affairs will be wound up in accordance with Michigan law. The Plan Administrator is authorized to take, in consultation with the Plan Oversight Committee, all actions reasonably necessary to dissolve the Subsidiary, and neither the Plan Administrator nor the Post-Effective Date Debtors shall be required to pay any taxes or fees in order to cause such dissolution and termination of the Subsidiary's existence. As the Partnership is the sole member of the Subsidiary, the interest in the Subsidiary is an asset in the Partnership's Estate.

(b) Welded Construction, L.P. On the Effective Date, pursuant to this Plan, all of the Interests in the Partnership, including, without limitation, all of the GP Interests and the LP Interests, are deemed automatically canceled, in exchange for no consideration to the Holders thereof. Upon such cancellation, the Partnership will have no general partners and no limited partners. As a consequence, the Partnership will thereupon automatically dissolve pursuant to section 17-801(4) of the LP Act.

Notwithstanding the dissolution of the Partnership, it will continue to exist as a separate legal entity, pursuant to section 17-201(b) of the LP Act, until the filing with the Delaware Secretary of State of a Certificate of Cancellation canceling the Partnership's Certificate of Limited Partnership (which filing is not subject to any statutory deadline). During the period between the Partnership's dissolution and the filing of the Certificate of Cancellation, the Partnership's business and affairs will be wound up under sections 17-803(b) and 17-804 of the LP Act. Subject to the terms of this Plan, such winding up may involve, among other things, prosecuting suits by and defending suits against the Partnership; settling and closing the Partnership's business, if any; liquidating, disposing of, and conveying the Partnership's property; paying, discharging or making reasonable provision for the Partnership's liabilities; and taking all actions permitted under this Plan. The winding up will be carried out by or under the direction of the Plan Administrator in consultation with the Plan Oversight Committee. The Plan Administrator will be the Liquidating trustee of the Partnership as provided in sections 17-803 and 17-804 of the LP Act.

When the Plan Administrator shall have implemented this Plan, administered and distributed the Debtors' Assets in accordance with the terms of this Plan, and otherwise completed winding up the business and affairs of the Partnership, the Plan Administrator shall, in consultation with the Plan Oversight Committee, cause the Partnership's Certificate of Limited Partnership to



be canceled under section 17-203(a) of the LP Act by filing a Certificate of Cancellation with the Delaware Secretary of State. The Plan Administrator is authorized to take, after consultation with the Plan Oversight Committee, all actions reasonably necessary to cause such cancellation, and neither the Plan Administrator nor the Post-Effective Date Debtors shall be required to pay any taxes or fees in order to cause such cancellation. Regardless of when such winding up is completed, under no circumstances will such Certificate of Cancellation be filed before the Subsidiary shall have been dissolved and its affairs completely wound up.

## **5.5 Plan Administrator.**

**5.5.1 Appointment; Duties.** Not less than ten (10) days prior to the commencement of the Confirmation Hearing and subject to Bankruptcy Court approval in connection with Confirmation of this Plan, the Committee, in consultation with the Debtors and Federal Insurance Company, shall designate the Person who initially will serve as the Plan Administrator.

### **5.5.2 Plan Administrator Agreement.**

(a) Plan Administrator as a Fiduciary. The Plan Administrator shall be a fiduciary of each of the Debtors' Estates and the Post-Effective Date Debtors, and shall be compensated and reimbursed for expenses as set forth in, and in accordance with, the Plan Administrator Agreement.

(b) Provisions of the Plan Administrator Agreement and Confirmation Order. The Plan Administrator Agreement and the Confirmation Order shall provide that: (i) the Plan Administrator shall have no duties until the occurrence of the Effective Date, and on and after the Effective Date shall be a fiduciary of each of the Post-Effective Date Debtors and the Estates; (ii) if this Plan is withdrawn or otherwise abandoned prior to the occurrence of the Effective Date, the Plan Administrator position shall thereafter be dissolved; (iii) on and after the Effective Date, the Plan Administrator shall perform the functions of a Liquidating trustee of the Partnership as provided in sections 17-803 and 17-804 of the LP Act; and (iv) the Plan Administrator shall be subject to the terms of the Surety Cooperation Agreement Order.

### **5.5.3 Powers and Duties of Plan Administrator.**

(a) General Powers and Duties. From and after the Effective Date, pursuant to the terms and provisions of this Plan and the Plan Administrator Agreement, the Plan Administrator shall, in consultation with the Plan Oversight Committee, be empowered and directed to: (i) take all steps and execute all instruments and documents necessary to make Distributions to Holders of Allowed Claims and to perform the duties assigned to the Plan Administrator under this Plan or the Plan Administrator Agreement; (ii) comply with this Plan and the obligations hereunder; (iii) employ, retain or replace professionals to represent him or her with respect to his or her responsibilities; (iv) object to Claims as provided in this Plan, and prosecute such objections; (v) compromise and settle any issue or dispute regarding the amount, validity, priority, treatment or allowance of any Claim; (vi) establish, replenish or release any reserves as provided in this Plan, as applicable; (vii) exercise such other powers as may be vested in the Plan Administrator pursuant to this Plan, the Plan Administrator Agreement or any other order of the Bankruptcy Court, including the Confirmation Order, or otherwise act on behalf of and for the Debtors and the Post-Effective Date Debtors from and after the Effective Date; (viii) file applicable tax returns for any

of the Debtors; (ix) liquidate any of the Assets; and (x) prosecute, compromise, resolve or withdraw any of the Retained Causes of Action, subject to the terms of the Surety Cooperation Agreement Order. The Plan Administrator may, without the need for further Court approval, retain legal counsel and financial advisors to advise him or her in the performance of his or her duties, which counsel and advisors may be counsel and advisors for the Debtors and the Committee.

(b) Distributions. Pursuant to the terms and provisions of this Plan and the Plan Administrator Agreement, the Plan Administrator shall make the required Distributions specified under this Plan and in accordance with this Plan.

(c) Reserves. On the Effective Date, the Plan Administrator shall establish reserves as required by this Plan or as otherwise determined to be appropriate in his or her sole discretion.

**5.5.4 Compensation of the Plan Administrator**. The Estates and the Post-Effective Date Debtors shall pay the undisputed reasonable fees and expenses of the Plan Administrator and the Plan Administrator Professionals. If a party disputes the reasonableness of any such invoice and such dispute is not resolved by agreement, the Plan Administrator or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. The undisputed portion of such reasonable fees and expenses shall be paid as provided herein. The Plan Administrator shall provide summary invoices to the Plan Oversight Committee prior to payment of any such invoice.

**5.5.5 Indemnification of the Plan Administrator, the Plan Oversight Committee, and Related Parties**. The Debtors and the Post-Effective Date Debtors shall indemnify and hold harmless: (i) the Plan Administrator (solely in his or her capacity as such); (ii) the Plan Administrator Professionals; and (iii) the Plan Oversight Committee and Plan Oversight Committee Members (solely in their capacities as such) (collectively, the “Indemnified Parties”), with respect to any and all liabilities, losses, damages, claims, costs and expenses arising out of or due to their post-Effective Date actions or omissions, or consequences of such actions or omissions, taken in connection with this Plan, the Plan Administrator Agreement and the Confirmation Order, other than acts or omissions, or consequences of such post-Effective Date actions or omissions, resulting from such Indemnified Party’s bad faith, willful misconduct (including, without limitation, actual fraud) or gross negligence. To the extent that an Indemnified Party asserts a claim for indemnification as provided above, (i) any payment on account of such claim shall be paid solely from the Estates and (ii) the legal fees and related costs incurred by counsel to the Plan Administrator in monitoring and participating in the defense of such claims giving rise to the asserted right of indemnification shall be advanced to such Indemnified Party (and such Indemnified Party undertakes to repay such amounts if it ultimately shall be determined that such Indemnified Party is not entitled to be indemnified therefore) out of the Estates or any insurance. The indemnification provisions of the Plan Administrator Agreement shall remain available to and be binding upon any former Plan Administrator or the estate of any decedent of the Plan Administrator and shall survive the termination of the Plan Administrator Agreement.

**5.5.6 Insurance**. The Plan Administrator shall be authorized to obtain and pay for, out of the funds of the Estates, all reasonably necessary insurance coverage for him or herself, his or her agents, representatives, employees or independent contractors and the Debtors, including, but not

limited to, coverage with respect to: (i) any property that is or may in the future become the property of the Debtors or their Estates; and (ii) the liabilities, duties and obligations of the Plan Administrator and his or her agents, representatives, employees or independent contractors under the Plan Administrator Agreement, the latter of which insurance coverage may remain in effect for a reasonable period of time as determined by the Plan Administrator after the termination of the Plan Administrator Agreement.

**5.5.7 Preservation of Retained Causes of Action.** Except as expressly set forth in this Plan or the Confirmation Order, the Post-Effective Date Debtors shall retain all Retained Causes of Action and nothing contained in this Plan or the Confirmation Order shall be deemed to be a release, waiver or relinquishment of any such Retained Causes of Action. Subject to the provisions relating to Preference Actions below, the Post-Effective Date Debtors or the Plan Administrator, as applicable, shall have, retain, reserve and be entitled to assert all such Retained Causes of Action as fully as if these Chapter 11 Cases had not been commenced, and all of the Post-Effective Date Debtors' legal and equitable rights respecting any Claim that are not specifically waived or relinquished by this Plan, the Confirmation Order, or any Final Order (including settlement or other agreements authorized thereby) may be asserted after the Effective Date to the same extent as if these Chapter 11 Cases had not been commenced. Solely to the extent that the Plan Oversight Committee Chairperson, individually and on its own behalf and sole discretion, consents, the Post-Effective Date Debtors or Plan Administrator, as applicable, may pursue and/or litigate one or more Preference Actions, and upon such conditions as the Plan Oversight Committee Chairperson determines appropriate upon consultation with the Plan Oversight Committee as to the potential benefits such Preference Action(s) may bring after conducting an appropriate cost-benefit analysis (including weighing the potential impact upon Holders of any Surety Bond Claims) against the benefit to the Estates. For the avoidance of doubt, the Post-Effective Date Debtors or Plan Administrator, as applicable, are authorized to pursue Preference Actions under conditions required by the Plan Oversight Committee Chairperson if, in the Post-Effective Date Debtors' or Plan Administrator's respective business judgment, the pursuit of such Preference Actions under such required conditions is expected to result in a net benefit to the creditors.

## **5.6 Plan Oversight Committee.**

**5.6.1 Creation of the Plan Oversight Committee.** On or before ten (10) days prior to the commencement of the Confirmation Hearing and subject to Bankruptcy Court approval in connection with Confirmation of this Plan, the Committee, in consultation with the Debtors, may appoint up to two (2) Plan Oversight Committee Members, and the designated Plan Oversight Committee Chairperson, in consultation with the Debtors, may appoint up to one (1) Plan Oversight Committee Member. Each Plan Oversight Committee Member shall be authorized to act in accordance with this Plan and the Plan Administrator Agreement. Plan Oversight Committee Members shall serve without compensation and shall be entitled to reimbursement of actual, reasonable expenses incurred in the course of discharging their responsibilities as Plan Oversight Committee Members if such expenses have been approved by the Plan Administrator prior to being incurred. For the avoidance of doubt, Plan Oversight Committee Members shall not be entitled to reimbursement of fees and expenses of such Plan Oversight Committee Members' legal counsel or other professional advisors.

**5.6.2 Standing of the Plan Oversight Committee.** The Plan Oversight Committee shall have independent standing to appear and be heard in the Bankruptcy Court as to any matter relating to this Plan, the Plan Administrator Agreement, the Estates or the Post-Effective Date Debtors, including any matter as to which the Bankruptcy Court has retained jurisdiction pursuant to Article X of this Plan.

**5.6.3 Function and Duration of the Plan Oversight Committee.** The Plan Oversight Committee shall have the rights and responsibilities set forth in the Plan and the Plan Administrator Agreement, including instructing and supervising the Plan Administrator with respect to its responsibilities under this Plan and the Plan Administrator Agreement. The Plan Oversight Committee shall remain in existence until such time as the final Distributions under the Plan have been made.

**5.6.4 Recusal of Plan Oversight Committee Members.** A Plan Oversight Committee member shall recuse itself from any decisions or deliberations regarding actions taken or proposed to be taken by the Plan Administrator with respect to the Claims, Retained Causes of Action or rights of such Plan Oversight Committee Member, the entity appointing such Plan Oversight Committee Member, or any affiliate of the foregoing.

**5.7 Funding of Reserves.**

**5.7.1 Professional Fee Reserve.** On the Effective Date, the Plan Administrator shall establish the Professional Fee Reserve as set forth in Section 11.2 of the Plan.

**5.7.2 Administrative and Priority Claims Reserve.** On the Effective Date, the Plan Administrator shall set aside Cash in the amount of the Administrative and Priority Claims Estimate, which Cash shall be used by the Post-Effective Date Debtors to fund the Administrative Claims Reserve. The Cash so transferred shall not be used for any purpose other than to pay Unclassified Claims (except Professional Fee Claims, which shall be paid from the Professional Fee Reserve), Secured Claims and Priority Claims. The Plan Administrator (i) shall segregate in an account and shall not commingle the Cash held in the Administrative and Priority Claims Reserve and (ii) subject to the terms and conditions of the Plan and the Plan Administrator Agreement, shall, in accordance with this Plan, pay each Unclassified Claim (except Professional Fee Claims, which shall be paid from the Professional Fee Reserve), Secured Claim and Priority Claim, on or as soon as reasonably practicable after the date such Claim becomes an Allowed Claim. After all Unclassified Claims (except Professional Fee Claims), Secured Claims and Priority Claims are Allowed or Disallowed and the Allowed amounts of such Claims are paid by the Plan Administrator, any remaining Cash in the Administrative and Priority Claims Reserve shall first be applied to pay any outstanding Allowed Professional Fee Claims and any remaining amounts shall be returned by the Plan Administrator to the Post-Effective Date Debtors for further distribution in accordance with this Plan.

**5.7.3 Other Reserves.** The Plan Administrator shall use Cash to establish and administer any other necessary reserves that may be required to effectuate this Plan and the Distributions to Holders of Allowed Claims hereunder or Plan Administrator Agreement, including the Disputed Claims Reserve and the Convenience Claims Reserve.

## **ARTICLE VI**

### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**6.1 Executory Contracts and Unexpired Leases.** Subject to the occurrence of the Effective Date, all executory contracts and unexpired leases of the Debtors that have not been assumed, assumed and assigned, or rejected, prior to the Effective Date, or are not subject to a motion to assume or reject Filed before the Effective Date, shall be deemed rejected pursuant to the Confirmation Order, as of the Effective Date, other than the Plan Settlement Agreement, the Indemnity Agreement, the Litigation Funding and Cooperation Agreement and the Insurance Contracts, including, without limitation, those identified in the Plan Supplement. For the avoidance of doubt, any post-petition consulting agreements shall not be deemed rejected as of the Effective Date. *Any Creditor asserting a Rejection Claim shall File a proof of claim with the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, at the address below, within thirty-five (35) days of the Effective Date, and shall also serve such proof of claim upon the Plan Administrator.*

Welded Construction Claims Processing Center  
c/o Kurtzman Carson Consultants LLC  
222 N Pacific Coast Highway, Suite 300  
El Segundo, CA 90245

**6.2 Rejection Claims.** Any Rejection Claims arising from this Plan that are not timely Filed pursuant to Section 6.1 of this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed pursuant to Section 6.1 of this Plan, the Post-Effective Date Debtors may File an objection to any Rejection Claim on or prior to the Claim Objection Deadline.

## **ARTICLE VII**

### **PROVISIONS GOVERNING DISTRIBUTIONS**

**7.1 Interest on Claims.** Except to the extent provided in section 506(b) of the Bankruptcy Code, this Plan or the Confirmation Order, post-petition interest, penalties or fees shall not accrue or be paid on Allowed Claims, and no Holder of an Allowed Claim shall be entitled to interest accruing on any Allowed Claim from and after the Petition Date.

**7.2 Distributions by Post-Effective Date Debtors.** The Plan Administrator or its designee, on behalf of the Post-Effective Date Debtors, shall serve as the disbursing agent under this Plan with respect to Distributions to Holders of Allowed Claims (provided that the Post-Effective Date Debtors may hire professionals or consultants to assist with making Distributions). The Post-Effective Date Debtors shall make all Distributions required to be made to such Holders of Allowed Claims pursuant to this Plan, the Confirmation Order and the Plan Administrator Agreement. The Post-Effective Date Debtors shall not be required to give any bond or surety or other security for the performance of the Plan Administrator's duties as disbursing agent unless otherwise ordered by the Bankruptcy Court.



**7.3 Distributions for Claims Allowed as of the Effective Date.** Except as otherwise provided herein or as ordered by the Bankruptcy Court, all Distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the initial distribution date by the Post-Effective Date Debtors. Distributions on account of Claims that first become Allowed Claims after the Effective Date shall be made pursuant to the terms and conditions of this Plan and the Plan Administrator Agreement. No Distribution shall be made on account of, without limitation, any Allowed Claim or portion thereof that (i) has been satisfied after the Petition Date; (ii) is listed in the schedules as contingent, unliquidated, disputed or in a zero amount, and for which a proof of claim has not been timely filed; or (iii) is evidenced by a proof of claim that has been amended by a subsequently filed proof of claim.

**7.4 Means of Cash Payment.**

(a) Cash payments under this Plan shall be made, at the option, and in the sole discretion, of the Post-Effective Date Debtors, by wire, check or such other method as the Post-Effective Date Debtors deems appropriate under the circumstances. Cash payments to foreign creditors may be made, at the option, and in the sole discretion, of the Post-Effective Date Debtors, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Cash payments made pursuant to this Plan in the form of checks issued by the Post-Effective Date Debtors shall be null and void if not cashed within ninety (90) days of the date of the issuance thereof. Requests for reissuance of any check within ninety days (90) of the date of the issuance thereof shall be made directly to the Post-Effective Date Debtors.

(b) For purposes of effectuating Distributions under this Plan, any Claim denominated in foreign currency shall be converted to U.S. Dollars pursuant to the applicable published exchange rate in effect on the Petition Date.

**7.5 Fractional Distributions.** Notwithstanding anything in this Plan to the contrary, no payment of fractional cents shall be made pursuant to this Plan. Whenever any payment of a fraction of a cent under this Plan would otherwise be required, the actual Distribution made shall reflect a rounding of such fraction to the nearest whole penny (up or down), with half cents or more being rounded up and fractions less than half of a cent being rounded down.

**7.6 De Minimis Distributions.** Notwithstanding anything to the contrary contained in this Plan, the Post-Effective Date Debtors shall not be required to distribute, and shall not distribute, Cash or other property to the Holder of any Allowed Claim if the amount of Cash or other property to be distributed on account of such Claim is less than \$100. Any Holder of an Allowed Claim on account of which the amount of Cash or other property to be distributed is less than \$100 shall be forever barred from asserting such Claim against the Estates.

**7.7 Delivery of Distributions.** All Distributions to Holders of Allowed Claims shall be made at the address of such Holder as set forth in the claims register maintained in these Chapter 11 Cases (subject to, after the Effective Date, a change of address notification provided by a Holder in a manner reasonably acceptable to the Post-Effective Date Debtors) or, in the absence of a filed-proof of claim, the Schedules. If a Distribution is returned as undeliverable, the Post-Effective Date Debtors shall use reasonable efforts to determine such Holder's then-current address, but shall have no affirmative obligation to locate such current address. If the Post-Effective Date

Debtors cannot determine, or is not notified of, a Holder's then-current address within ninety (90) days after the Effective Date, the Distribution reserved for such Holder shall be deemed an unclaimed Distribution. The responsibility to provide the Post-Effective Date Debtors a current address of a Holder of Claims shall always be the responsibility of such Holder. Except as set forth above, nothing contained in this Plan shall require the Post-Effective Date Debtors to attempt to locate any Holder of an Allowed Claim. Amounts in respect of undeliverable Distributions made by the Post-Effective Date Debtors shall be held in trust on behalf of the Holder of the Allowed Claim to which they are payable by the Post-Effective Date Debtors until the earlier of the date that such undeliverable Distributions are claimed by such Holder and ninety (90) days after the date the undeliverable Distributions were made. The Post-Effective Date Debtors shall have no obligation to recognize the sale or transfer of any Claim that occurs after the Confirmation Date.

**7.8 Withholding, Payment and Reporting Requirements with Respect to Distributions.**

All Distributions under this Plan shall, to the extent applicable, comply with all tax withholding, payment and reporting requirements imposed by any federal, state, provincial, local or foreign taxing authority, and all Distributions shall be subject to any such withholding, payment and reporting requirements. The Post-Effective Date Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment and reporting requirements. The Post-Effective Date Debtors may require, in the Post-Effective Date Debtors' sole and absolute discretion and as a condition to the receipt of any Distribution, that the Holder of an Allowed Claim complete and return to the Post-Effective Date Debtors the appropriate Form W-8 or Form W-9, as applicable, to each Holder. Notwithstanding any other provision of this Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such Distribution, and including, in the case of any Holder of a Disputed Claim that has become an Allowed Claim, any tax obligation that would be imposed upon the Estates in connection with such Distribution; and (b) no Distribution shall be made to or on behalf of such Holder pursuant to this Plan unless and until such Holder has made arrangements reasonably satisfactory to the Post-Effective Date Debtors for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the Estates in connection with such Distribution.

**7.9 Setoffs.** The Post-Effective Date Debtors may, but shall not be required to, set off against any Claim, any payments, Retained Causes of Actions or other Distributions to be made by the Post-Effective Date Debtors pursuant to this Plan in respect of such Claim, any claims of any nature whatsoever that the Debtors or the Estates may have against the Holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Estates or the Post-Effective Date Debtors of any such claim that it may have against such Holder, provided further, that if the Post-Effective Date Debtors set off any Avoidance Action or Retained Cause of Action against the recovery to any Holder of a Claim pursuant to this Section 7.9, the Post-Effective Date Debtors shall not be deemed to have impaired, estopped, waived, or released any rights to prosecute the same such Avoidance Action or Retained Cause of Action against any other Person or Entity.

**7.10 No Distribution in Excess of Allowed Amounts.** Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall receive in respect of such Claim any Distribution of a value as of the Effective Date in excess of the Allowed amount of such Claim.

**7.11 Allocation of Distributions.** All Distributions received under this Plan by Holders of Claims shall be deemed to be allocated first to the principal amount of such Claim as determined for United States federal income tax purposes and then to accrued interest, if any, with respect to such Claim.

**7.12 Forfeiture of Distributions.** If the Holder of an Allowed Claim fails to cash a check payable to it within the time period set forth in Section 7.4(a) of this Plan, fails to claim an undeliverable Distribution within the time limit set forth in Section 7.7, or fails to complete and return to the Post-Effective Date Debtors the appropriate Form W-8 or Form W-9 within one hundred twenty (120) days of the written request by the Post-Effective Date Debtors for the completion and return to it of the appropriate form pursuant to Section 7.8, then such Holder shall be deemed to have forfeited its right to any Distributions from the Estates (or the proceeds thereof) and the Post-Effective Date Debtors. The forfeited Distributions shall become unrestricted Assets, and shall be redistributed to Holders of Allowed Claims in accordance with the terms of this Plan after reserving as necessary for payment of expenses of the Plan Administrator and otherwise in compliance with this Plan and the Plan Administrator Agreement. In the event the Post-Effective Date Debtors determine, in the Post-Effective Date Debtors' sole discretion, that any such amounts are too small in total to economically redistribute to the Holders of Allowed Claims, the Post-Effective Date Debtors may instead donate such amounts to a charitable organization(s), free of any restrictions thereon, notwithstanding any federal or state escheat laws to the contrary.

## **ARTICLE VIII**

### **PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT AND UNLIQUIDATED CLAIMS AND DISTRIBUTIONS WITH RESPECT THERETO**

**8.1 Claims Administration Responsibility.** Except as otherwise specifically provided in this Plan and the Plan Administrator Agreement, after the Effective Date, the Post-Effective Date Debtors shall have the authority (a) to file, withdraw or litigate to judgment objections to Claims; (b) to settle, compromise or Allow any Claim or Disputed Claim without any further notice to or action, order or approval by the Bankruptcy Court; (c) to amend the Schedules in accordance with the Bankruptcy Code; and (d) to administer and adjust the claims register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court. Any agreement entered into by the Post-Effective Date Debtors (acting in accordance with the terms of the Plan Administrator Agreement) with respect to the allowance of any Claim shall be conclusive evidence and a final determination of the Allowance of such Claim.

**8.2 Claim Objections.** All objections to Claims (other than (i) Administrative Claims and (ii) Professional Fee Claims, which Professional Fee Claims shall be governed by Section 11.2 of this Plan) shall be Filed by the Post-Effective Date Debtors on or before the Claim Objection Deadline, which date may be extended by the Bankruptcy Court upon a motion filed by the Post-Effective Date Debtors on or before the Claim Objection Deadline with notice only to those parties entitled to notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002 as of the filing of



such motion. The Filing of a motion to extend the Claim Objection Deadline shall automatically extend the Claim Objection Deadline until a final order is entered by the Bankruptcy Court. In the event that such a motion to extend the Claim Objection Deadline is denied, the Claim Objection Deadline shall be the later of the then-current Claim Objection Deadline (as previously extended, if applicable) or thirty (30) days after entry of a Final Order denying the motion to extend the Claim Objection Deadline.

**8.3 No Distributions Pending Allowance.** Notwithstanding any other provision of this Plan or the Plan Administrator Agreement, no payments or Distributions shall be made with respect to a Disputed Claim unless and until all objections to such Disputed Claim have been settled, withdrawn, or determined by a Final Order, and the Disputed Claim has become an Allowed Claim. To the extent that a Claim is not a Disputed Claim but is held by a Holder that is or may be liable to the Debtors or the Post-Effective Date Debtors on account of a Retained Cause of Action, no payments or Distributions shall be made with respect to all or any portion of such Claim unless and until such Claim and liability have been settled or withdrawn or have been determined by Final Order of the Bankruptcy Court or such other court having jurisdiction over the matter.

**8.4 Estimation of Contingent or Unliquidated Claims.** The Post-Effective Date Debtors may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount shall constitute the Allowed amount of such Claim. All of the Claims objection, estimation and resolution procedures in Section 8 are cumulative and are not necessarily exclusive of one another.

**8.5 Amendments to Claims.** On or after the Effective Date, a Claim may not be filed or amended to increase liability or to assert new liabilities without the prior authorization of the Bankruptcy Court or the Post-Effective Date Debtors and any such new or amended Claim filed without prior authorization shall be deemed disallowed in full and expunged without any further action. Any Claims filed after the applicable deadlines in the Bar Date Orders or this Plan shall be automatically deemed disallowed in full and expunged without further action.

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE**

**9.1 Conditions to Confirmation.** The following are conditions precedent to confirmation of the Plan, each of which must be satisfied or waived in accordance with Section 9.3 of this Plan:

(i) the provisions of the Confirmation Order that relate to the Plan Settlement Agreement and the Indemnity Agreement shall be in form and substance reasonably acceptable to the Debtors, the Partner Settlement Parties and the Committee and shall, among other things:

(A) provide that the Debtors are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the agreements or documents created under or in connection with the Plan; and

(B) provide that, notwithstanding Bankruptcy Rule 3020(e), the Confirmation Order shall be immediately effective, subject to the terms and conditions of the Plan; and the Confirmation Order shall have been entered by the Bankruptcy Court.

(ii) each of the Plan Settlement Agreement and Indemnity Agreement shall be signed by all parties and in a form acceptable to the Debtors and Committee.

**9.2 Conditions to the Occurrence of the Effective Date.** The occurrence of the Effective Date shall not occur and this Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived, as applicable, pursuant to Section 9.3 of this Plan:

(i) the Bankruptcy Court shall have entered the Confirmation Order;

(ii) the Confirmation Order shall not be subject to any stay;

(iii) the Plan Administrator Agreement shall have been executed, and a Plan Administrator and Plan Oversight Committee shall have been appointed;

(iv) the Professional Fee Reserve shall be funded in Cash pursuant to and in accordance with Sections 5.7 and 11.2 of this Plan in an amount agreed to by the Debtors and the Committee or, if there is a dispute concerning the amount of the funding required, in an amount fixed by the Bankruptcy Court; and

(v) all actions, documents, and agreements necessary to implement the provisions of this Plan to be effectuated on or prior to the Effective Date shall be reasonably satisfactory to the Debtors and the Committee, and such actions, documents, and agreements shall be effective or executed and delivered.

**9.3 Waiver of Conditions to the Occurrence of the Effective Date.** The conditions to the Effective Date set forth in Section 9.2 of this Plan may be waived in writing by mutual written agreement, including by electronic mail, of the Debtors and the Committee at any time without further Order.

**9.4 Effect of Non-Occurrence of Conditions to the Effective Date.** If each of the conditions to the Effective Date is not satisfied or duly waived in accordance with Sections 9.2 and 9.3 of this Plan, the Debtors reserve all rights to seek an order from the Bankruptcy Court directing that the Confirmation Order be vacated. If the Confirmation Order is vacated pursuant to this Section 9.4 of this Plan, (i) this Plan shall be null and void in all respects; and (ii) nothing contained in this Plan shall (a) constitute a waiver or release of any Claims or any Interests, or (b) prejudice in any manner the rights of the Debtors, the Estates or any other Person or Entity.

## ARTICLE X

### RETENTION OF JURISDICTION

**10.1 Scope of Retained Jurisdiction.** Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, or related to, these Chapter 11 Cases and this Plan to the fullest extent permitted by law, including, among other things, jurisdiction to do the following:

(a) allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured or unsecured status of any Claim not otherwise Allowed under this Plan, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims;

(b) hear and determine all applications for compensation and reimbursement of expenses of Professionals under this Plan or under sections 327, 328, 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;

(c) hear and determine all matters with respect to the assumption, assignment or rejection of any executory contract or unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable, including, if necessary, the nature or amount of any required cure or the liquidation or allowance of any Claims arising therefrom;

(d) effectuate performance of and payments under the provisions of this Plan and any agreement or order of the Bankruptcy Court with respect to a sale of the Debtors' Assets prior to the Effective Date and enforce remedies upon any default under this Plan and any such sale agreement or order;

(e) hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters that are pending as of the Effective Date, that are arising out of, under or related to, these Chapter 11 Cases, including, without limitation, the Retained Causes of Action, and that are with respect to this Plan. For the avoidance of doubt, the Bankruptcy Court shall retain jurisdiction over (1) the Williams Litigation; (2) that certain litigation styled as *Schmid Pipeline Construction, Inc. v. Columbia Gas Transmission, LLC and Welded Construction, L.P.*, Adv. Case No. 19-50886 (CSS); and (3) that certain litigation styled as *Earth Pipeline Services, Inc. v. Columbia Gas Transmission, LLC*, Adv. Case Nos. 19-50274 (CSS) and 19-50275 (CSS);

(f) enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of this Plan and all contracts, instruments, releases and other agreements or documents created, executed or contemplated in connection with this Plan, the Disclosure Statement or the Confirmation Order, including, without limitation, the Plan Settlement and the Indemnity Agreement;

(g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of this Plan, including disputes arising under agreements, documents or instruments executed in connection with this Plan, including, without limitation, the Plan Settlement and the Indemnity Agreement;

(h) consider any modifications of this Plan, cure any defect or omission, or reconcile any inconsistency in any Order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(i) issue injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the implementation, consummation or enforcement of this Plan or the Confirmation Order;

(j) enter and implement such Orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;

(k) hear and determine any matters arising in connection with or relating to this Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, any agreement or Final Order of the Bankruptcy Court, or any contract, instrument, release or other agreement or document created, executed or contemplated in connection with any of the foregoing documents and Orders;

(l) enforce, interpret and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with these Chapter 11 Cases, including, without limitation, the Plan Settlement Agreement, the Indemnity Agreement and any and all customer completion agreements, including, but not limited to, the (1) Columbia Gas Agreement, (2) each of the Commitment Letters, (3) the Consumers Agreement and (4) the ETP Agreement (each defined and discussed more fully in the Disclosure Statement);

(m) except as otherwise limited herein, recover all Assets of the Debtors, wherever located;

(n) hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(o) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code;

(p) resolve any cases, controversies, suits or disputes related to the Estates, including, but not limited to, the Debtors' Assets; and

(q) enter a final decree closing these Chapter 11 Cases.

**10.2 Failure of the Bankruptcy Court to Exercise Jurisdiction.** If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to these Chapter 11 Cases, including the matters set forth in Section 10.1 of this Plan, the provisions of this Article X shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

**11.1 Administrative Claims Bar Date.** *All requests for payment of an Administrative Claim arising on or after April 1, 2019 must be Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, and counsel to the U.S. Trustee no later than thirty five (35) days after the Effective Date.* In the event of an objection to allowance of an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim.

**11.2 Professional Fee Claims.** (a) *All final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors and counsel to the U.S. Trustee no later than thirty (30) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, counsel to the Committee, counsel to the U.S. Trustee and the requesting Professional on or before the date that is fourteen (14) days after the date on which the applicable application was served (or such longer period as may be allowed by Order of the Bankruptcy Court or by agreement with the requesting Professional);* (b) all Professional Fee Claims shall be paid by the Estates to the extent approved by Order of the Bankruptcy Court within five (5) Business Days from entry of such Order. On or before the Effective Date, the Debtors shall establish the Professional Fee Reserve, which shall only be used to pay (i) Professional Fee Claims and (ii) any claims of Zolfo Cooper Management, LLC and AlixPartners, LLP (as applicable) for compensation or reimbursement of costs and expenses relating to services provided to the Debtors during the period from the Petition Date through the Effective Date, unless and until all Professional Fee Claims and any such claims of Zolfo Cooper Management, LLC and AlixPartners, LLP (as applicable) have been paid in full, otherwise satisfied or withdrawn. The Professional Fee Reserve shall vest in the Estates and shall be maintained by the Post-Effective Date Debtors in accordance with this Plan and the Plan Administrator Agreement. The Estates shall fund the Professional Fee Reserve on the Effective Date in an amount that is agreed upon by the Debtors and the Committee and that approximates, as of the Effective Date, the total projected amount of unpaid Professional Fee Claims and unpaid claims of Zolfo Cooper Management, LLC and AlixPartners, LLP, as applicable, for compensation or reimbursement of costs and expenses relating to services provided to the Debtors Estates during the period from the Petition Date through the Effective Date. If the Debtors and the Committee are unable to agree on an amount by which the Professional Fee Reserve is to be funded, the Debtors and the Committee shall submit the issue to the Bankruptcy Court, which, following notice and a hearing, shall fix the amount of the required Professional Fee Reserve. Any excess funds in the Professional Fee Reserve shall be released back to the Estates to be used for other purposes consistent with this Plan and the Plan Administrator Agreement.

**11.3 Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to section 1930 of title 28 of the United States Code prior to the Effective Date shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Estates, the Post-Effective Date Debtors and the Plan Administrator in the ordinary course. The

Post-Effective Date Debtors and the Plan Administrator shall have the obligation to pay quarterly fees to the Office of the United States Trustee pursuant to section 1930 of title 28 of the United States Code for each Debtor until its particular case is closed, dismissed or converted. Notwithstanding anything to the contrary in this Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to section 1930 of title 28 of the United States Code.

**11.4 Dissolution of Committee.** On the Effective Date, the Committee shall dissolve and all members, ex officio members, employees, attorneys, financial advisors, other Professionals or other agents thereof shall be released from all rights and duties arising from or related to these Chapter 11 Cases or this Plan and its implementation, and the retention or employment of the Committee's attorneys and financial advisors and other agents shall terminate, provided, however, that the Committee shall continue in existence and its Professionals shall continue to be retained with respect to (i) applications Filed or to be Filed pursuant to sections 330 and 331 of the Bankruptcy Code and (ii) any appeals of the Confirmation Order.

**11.5 Modifications and Amendments.**

(a) The Debtors may alter, amend or modify this Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. All alterations, amendments or modifications to this Plan must comply with section 1127 of the Bankruptcy Code. The Debtors shall provide parties in interest with notice of such amendments or modifications as may be required by the Bankruptcy Rules or Order of the Bankruptcy Court. A Holder of a Claim that has accepted this Plan shall be deemed to have accepted this Plan, as altered, amended, modified or clarified, if the proposed alteration, amendment, modification or clarification does not materially and adversely change the treatment of the Claim of such Holder.

(b) After the Confirmation Date and prior to substantial consummation (as defined in section 1101(2) of the Bankruptcy Code) of this Plan, the Debtors or the Post-Effective Date Debtors, as applicable, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in this Plan, the Disclosure Statement approved with respect to this Plan or the Confirmation Order, and such matters as may be necessary to carry out the purpose and effect of this Plan. Such proceedings must comply with section 1127 of the Bankruptcy Code. To the extent required, prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or an order of the Bankruptcy Court. A Holder of a Claim that has accepted this Plan shall be deemed to have accepted this Plan, as altered, amended, modified or clarified, if the proposed alteration, amendment, modification or clarification does not materially and adversely change the treatment of the Claim of such Holder.

**11.6 Severability of Plan Provisions.** If, prior to Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan shall remain in



full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted, is valid and enforceable pursuant to its terms.

**11.7 Successors and Assigns.** The rights, benefits and obligations of any Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor or assign of such Entity; provided, however, that beneficial interests in the Estates shall be non-transferable except upon death of the interest holder or by operation of law.

**11.8 Post-Effective Date Compromises and Settlements.** From and after the Effective Date, the Post-Effective Date Debtors may compromise and settle Claims against the Debtors and their Estates, as well as the Retained Causes of Action, without any further approval by or notice to the Bankruptcy Court, except with respect to the Williams Litigation, which shall be treated in accordance with the Surety Cooperation Agreement Order.

**11.9 Binding Effect of Plan.** Upon the Effective Date, section 1141 of the Bankruptcy Code shall become applicable with respect to this Plan and this Plan shall be binding on all parties to the fullest extent permitted by section 1141(a) of the Bankruptcy Code.

**11.10 Non-Discharge of the Debtors; Injunction.** In accordance with section 1141(d)(3) of the Bankruptcy Code, this Plan does not discharge the Debtors. Section 1141(c) of the Bankruptcy Code nevertheless provides, among other things, that the property dealt with by this Plan is free and clear of all Claims and Interests. As such, no Person or Entity holding a Claim or Interest may receive any payment from, or seek recourse against, any Assets or property of the Debtors and their Estates or the Post-Effective Date Debtors other than Assets or property required to be distributed to that Person or Entity under this Plan. As of the Effective Date, all parties are precluded from asserting against any Assets or property of the Debtors and their Estates and the Post-Effective Date Debtors any Claims, rights, causes of action, liabilities or Interests based upon any act, omission, transaction or other activity that occurred before the Effective Date except as expressly provided in this Plan or the Confirmation Order.

Except as otherwise expressly provided for in this Plan or the Confirmation Order, all Persons and Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Interest, from:

(a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, their Estates, the Post-Effective Date Debtors, their successors and assigns and any of their Assets and properties;

(b) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against the Debtors, their Estates, the Post-Effective Date Debtors, their successors and assigns and any of their Assets and properties;

(c) creating, perfecting or enforcing any encumbrance of any kind against the Debtors, their Estates, the Post-Effective Date Debtors, their successors and assigns and any of their Assets and properties;

(d) asserting any right of setoff or subrogation of any kind against any obligation due from the Debtors, their Estates, the Post-Effective Date Debtors or their successors and assigns, or against any of their Assets and properties, except to the extent that a right to setoff or subrogation is asserted in a timely filed proof of claim; or

(e) commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim, Interest or cause of action released or settled hereunder.

From and after the Effective Date, all Persons and Entities are permanently enjoined from commencing or continuing in any manner against the Debtors, their Estates, the Post-Effective Date Debtors, the Released Parties, their successors and assigns and any of their Assets and properties, any suit, action or other proceeding, on account of or respecting any claim, interest, demand, liability, obligation, debt, right, cause of action, interest or remedy released or to be released pursuant to this Plan or the Confirmation Order.

#### **11.11 Releases and Related Matters.**

(a) **Releases by Debtors.** As of the Effective Date, for good and valuable consideration, including the contributions of the Released Parties in facilitating the administration of these Chapter 11 Cases and other actions contemplated by this Plan and the other contracts, instruments, releases, agreements or documents executed and delivered in connection with this Plan and these Chapter 11 Cases, including, without limitation, the Plan Settlement, the Released Parties are deemed forever released by the Debtors and the Estates, and anyone claiming by or through the Debtors and the Estates, from any and all claims, interests, obligations, rights, suits, damages, causes of action, (including any and all causes of action under chapter 5 of the Bankruptcy Code), remedies and liabilities whatsoever, including any derivative claims or claims asserted or assertible on behalf of the Debtors and the Estates, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, existing or hereinafter arising, in law, equity or otherwise, that the Debtors or the Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest, based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Estates, these Chapter 11 Cases, this Plan, the Disclosure Statement or related agreements, instruments or other documents in these Chapter 11 Cases. For the avoidance of doubt, with respect to contingent Claims asserted by Debtors' current or former officers and managers, the Plan Administrator retains all rights to reconcile such Claims, consistent with the Plan Settlement Agreement.

(b) **Releases by Holders of Claims.** As of the Effective Date, for good and valuable consideration, including the contributions of the Released Parties in facilitating the



administration of these Chapter 11 Cases and other actions contemplated by this Plan and the other contracts, instruments, releases, agreements or documents executed and delivered in connection with this Plan and these Chapter 11 Cases, including, without limitation, the Plan Settlement, and subject to Section 11.11(e) of this Plan, each of the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released the Released Parties from any and all claims, interests, obligations, rights, suits, damages, causes of action (including any and all causes of action under chapter 5 of the Bankruptcy Code), remedies and liabilities whatsoever, including any derivative claims or claims asserted or assertible on behalf of the Debtors and the Estates, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, existing or hereafter arising, in law, equity or otherwise, that such Releasing Party would have been legally entitled to assert (whether individually or collectively), based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Estates, these Chapter 11 Cases, this Plan, the Disclosure Statement or related agreements, instruments or other documents; provided, however, that nothing herein shall be deemed a waiver or release of any right of any such Releasing Parties to receive a Distribution pursuant to the terms of this Plan; provided further, however, that the foregoing provisions of this release in Section 11.11(b) of this Plan shall not operate to waive, release or otherwise impair any causes of action arising from criminal acts, willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. For the avoidance of doubt, notwithstanding anything to the contrary herein, the foregoing release by the Releasing Parties is not, and shall not be deemed to be, in exchange for a waiver of the Debtors' rights or claims against the Releasing Parties, including the Debtors' rights to assert setoffs, recoupments or counterclaims, or to object or assert defenses to any Claim or Interest, and all such rights and claims are expressly reserved. Notwithstanding any of the foregoing, nothing in this Section is intended to limit or otherwise modify any releases or waivers that are separately provided for in any other Final Order (including settlement or other agreements authorized thereby) of the Bankruptcy Court.

(c) Entry of the Confirmation Order shall constitute (i) the Bankruptcy Court's approval of the releases set forth in this Section 11.11; and (ii) the Bankruptcy Court's findings that, among other things, such releases are (1) in the best interests of the Debtors, the Estates and all Holders of Claims that are Releasing Parties, (2) fair, equitable and reasonable, (3) given and made after due notice and opportunity for objection and hearing, (4) consensual, (5) supported by consideration, and (6) a bar to any of the Releasing Parties asserting any released claim against any of the Released Parties.

(d) Each Holder of a Claim in Class 4 and 5 shall be a Releasing Party and, as such, provides the releases set forth in Section 11.11(b) of this Plan, unless such Holder timely submits a Release Opt-Out indicating such Holder's decision to not participate in the releases set forth in Section 11.11(b) of this Plan, or Files an objection to the releases in Section 11.11(b) of this Plan prior to the deadline to object to Confirmation of this Plan.

(e) Federal Insurance Company Release. On behalf of itself and any person or entity claiming by or through Federal Insurance Company or any of its Related Parties, Federal

Insurance Company grants the releases set forth in Section 11.11(b) of this Plan to each of the Released Parties except for the direct claims against the Debtors, which are preserved, and except for any claims arising under or relating to (a) bonds issued on behalf of entities other than Welded Construction, L.P., and associated indemnity agreements, (b) insurance contracts and related agreements, including collateral agreements, pertaining to the Released Parties, and (c) any other contract to which a Released Party is a direct party.

**11.12 Exculpation and Limitation of Liability.** On the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, to the maximum extent permitted by law, none of the Exculpated Parties shall have or incur any liability to any Person or Entity, including, without limitation, to any Holder of a Claim or an Interest, for any act or omission in connection with, relating to, or arising out of these Chapter 11 Cases, the formulation, negotiation, preparation, dissemination, solicitation of acceptances, implementation, confirmation or consummation of this Plan, the Disclosure Statement, the Plan Administrator Agreement or any contract, instrument, release or other agreement or document created, executed or contemplated in connection with this Plan, or the administration of this Plan or the Assets and property to be distributed under this Plan; **provided, however,** that the exculpation provisions of this Section 11.12 shall not apply to acts or omissions constituting actual fraud, willful misconduct or gross negligence by such Exculpated Party, as determined by a Final Order. The Confirmation Order and this Plan shall serve as a permanent injunction against any Person or Entity seeking to enforce any claim or cause of action against the Exculpated Parties that has been exculpated pursuant to this Section 11.12 of this Plan.

**11.13 Term of Injunctions or Stays.** Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in these Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (including any injunctions or stays contained in or arising from this Plan or the Confirmation Order), shall remain in full force and effect.

**11.14 Revocation, Withdrawal or Non-Consummation.** The Debtors reserve the right to revoke or withdraw this Plan at any time prior to the Confirmation Date and to file subsequent chapter 11 plans. If the Debtors revoke or withdraw this Plan prior to the Confirmation Date, or if Confirmation or the Effective Date does not occur, then (a) this Plan shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims) and any document or agreement executed pursuant to this Plan shall be deemed null and void; and (c) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims against, or any Interests in, any Debtor, or any Avoidance Actions, Retained Causes of Action or other claims by or against any Debtor or any Entity, (ii) prejudice in any manner the rights of any Debtor or any Entity in any further proceedings involving a Debtor or (iii) constitute an admission of any sort by any Debtor or any other Entity.

**11.15 Computation of Time.** In computing any period of time prescribed or allowed by this Plan, the provisions of Rule 9006(a) of the Bankruptcy Rules shall apply.

**11.16 Headings.** The headings of articles, paragraphs and subparagraphs of this Plan are inserted for convenience only and shall not affect the interpretation of any provision of this Plan.

**11.17 Governing Law.** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), and except as otherwise provide herein, the laws of (a) the State of Delaware shall govern the construction and implementation of this Plan and (except as may be provided otherwise in any such agreements, documents or instruments) any agreements, documents and instruments executed in connection with this Plan and (b) the laws of the state of formation of each Debtor shall govern corporate governance matters with respect to such Debtor; in each case without giving effect to the principles of conflicts of law thereof.

**11.18 Notices.** Following the Effective Date, all pleadings and notices Filed in these Chapter 11 Cases shall be served solely on (i) the Post-Effective Date Debtors and their counsel, (ii) the U.S. Trustee, (iii) any party whose rights are affected by the applicable pleading or notice and (iv) any party Filing a request with the Bankruptcy Court in these Chapter 11 Cases to receive notices and papers in these Chapter 11 Cases following the Effective Date.

**11.19 Preservation of Retained Causes of Action.**

**11.19.1 Vesting of Causes of Action.**

- (a) Except as otherwise provided in this Plan or Confirmation Order, in accordance with section 1123(b)(3) of the Bankruptcy Code, any Retained Causes of Action that the Debtors may hold against any Person or Entity shall vest upon the Effective Date in the Post-Effective Date Debtors.
- (b) Except as otherwise provided in this Plan or Confirmation Order, after the Effective Date, the Post-Effective Date Debtors shall have the exclusive right to institute, prosecute, abandon, settle or compromise any Retained Causes of Action, in accordance with the terms of this Plan and the Plan Administrator Agreement and without further order of or notice to the Bankruptcy Court, in any court or other tribunal, including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases; provided, however, that the Williams Litigation shall be treated in accordance with the Surety Cooperation Agreement Order.

**11.19.2 Reservation of Causes of Action.** Unless a Retained Cause of Action against a Holder or other Person or Entity is expressly waived, relinquished, released, compromised or settled in this Plan, the Confirmation Order or any Final Order, the Debtors, the Estates and the Post-Effective Date Debtors expressly reserve such Retained Cause of Action for later adjudication by the Post-Effective Date Debtors, including, without limitation, Retained Causes of Action of which the Debtors may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances that may change or be different from those the Debtors now believe to exist. Therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise), laches or the like, shall apply to such Retained Causes of Action upon or after the entry of the Confirmation Order or Effective Date based on the Disclosure Statement, Plan, or Confirmation Order, except where

such Retained Causes of Action have been expressly waived, relinquished, released, compromised or settled in this Plan, the Confirmation Order, a Final Order of the Bankruptcy Court or, following the Effective Date, in a written agreement duly executed by the Post-Effective Date Debtors which agreement, by its terms, is not subject to Bankruptcy Court approval.

**11.20 Bar Date Orders.** Nothing herein extends or otherwise modifies a bar date established in the Bar Date Orders or other Final Order of the Bankruptcy Court.

**11.21 Section 1146 Exemption.** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under this Plan or the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by this Plan, or the re-vesting, transfer or sale of any real or personal property of the Debtors pursuant to, in implementation of, or as contemplated by this Plan, shall not be taxed under any state or local law imposing a stamp tax, transfer tax or any similar tax or fee.

**11.22 Conflicts with this Plan.** In the event and to the extent that any provision of this Plan is inconsistent with the provisions of the Disclosure Statement and any other Order in these Chapter 11 Cases, or any other agreement to be executed by any Person pursuant to this Plan, the provisions of this Plan shall control and take precedence; provided, however, that (1) the Confirmation Order shall control and take precedence in the event of any inconsistency between the Confirmation Order, any provision of this Plan, and any of the foregoing documents and (2) except as to the Settlement Agreement and section 11.11 of this Plan, the Order Approving Litigation Funding and Cooperation Agreement shall control, and take precedence in the event of any inconsistency between the terms of the Plan and the terms of the Litigation Funding and Cooperation Agreement.

**11.23 No Stay of Confirmation Order.** The Debtors will request that the Bankruptcy Court waive any stay of enforcement of the Confirmation Order otherwise applicable, including, without limitation, pursuant to Bankruptcy Rules 3020(e), 6004(h) and 7062.

## **ARTICLE XII**

### **THE PLAN SETTLEMENT**

**12.1 The Plan Settlement.** Following good faith and arm's length negotiations, in exchange for the releases and other valuable consideration provided for in this Plan, the Debtors, the Committee and the Partner Settlement Parties (i.e., the Plan Settlement Parties) have agreed to the settlement provided for in the Plan Settlement Agreement and Indemnity Agreement annexed hereto as **Exhibit A** and fully incorporated herein as a material component of the Plan. The Plan Settlement and Indemnity Agreement each provide significant value to the Debtors and their Estates, favorably resolve and avoid potential protracted expensive and uncertain litigation, and enable the prompt and efficient wind-down of the Debtors' Estates through this Plan. The Plan Settlement is integral to the development and implementation of this Plan. This Plan, taken together with the Disclosure Statement, shall serve as a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the compromises and settlements provided for in the Plan Settlement, and the Bankruptcy Court's findings shall constitute its determination that such

compromises and settlements are in the best interests of the Debtors, their Estates, Holders of Claims and Interests and other parties in interest, and are fair, equitable, and reasonable.

**12.1.1 Plan Settlement Payment.** Within ten (10) days of the Confirmation Order becoming a Final Order, the Partner Settlement Parties shall make the Plan Settlement Payment to the Debtors or the Post-Effective Date Debtors, as applicable.

### **ARTICLE XIII**

#### **REQUEST FOR CONFIRMATION**

**13.1 Request for Confirmation.** The Debtors request Confirmation of this Plan in accordance with section 1129(b) of the Bankruptcy Code.

IN WITNESS WHEREOF, the Debtors have executed this Plan this 25th day of June, 2020.

**By:** */s/Frank A. Pometti*  
Frank A. Pometti, Chief Restructuring Officer  
Welded Construction, L.P.  
Welded Construction Michigan, LLC

**EXHIBIT A**

Plan Settlement Agreement

## **SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** (this “Settlement Agreement”) is made as of June 18, 2020 by and between (i) Welded Construction, L.P. and Welded Construction Michigan, LLC (collectively, the “Debtors”) on behalf of themselves, their successor(s), their bankruptcy estates, and any succeeding retained bankruptcy estate under the Plan (the “Estate”), (ii) the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (as defined below) (the “Committee”), and (iii) Bechtel GP, Bechtel LP, Bechtel Corporation, Bechtel Global Corporation, Bechtel Oil, Gas and Chemicals, Inc., Bechtel Equipment Operation Inc., Bechtel Power Corporation, McCaig GP, and McCaig LP (collectively, the “Partner Settlement Parties”, and together with the Debtors and Committee, the “Parties”).

### **RECITALS**

**WHEREAS**, on October 22, 2018, the Debtors filed voluntary petitions seeking relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) and commencing cases under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”) before the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”);

**WHEREAS**, on October 30, 2018, the Committee was appointed by the United States Trustee;

**WHEREAS**, following its appointment, the Committee undertook an investigation (the “Investigation”) of any and all actions, causes of action (including any causes of action under chapter 5 of the Bankruptcy Code), claims, charges, demands, damages, judgments, obligations, losses, expenses, liens, costs, penalties, attorneys’ fees, or any other compensation, of any kind, whether in law, equity or otherwise, and/or any other claims, whether known or unknown, fixed or contingent, joint and/or several, direct, indirect, or derivative, asserted or unasserted against the Partner Settlement Parties, in any way arising out of, in connection with or otherwise relating to any act, fact, event or omission or other matter, cause or thing occurring at any time, with respect to the status of any Partner Settlement Party as an equity holder of the Debtors, the actions or omissions of any Partner Settlement Party as a former or current director or officer of Debtors or any of its subsidiaries, the actions or omissions of any Partner Settlement Party relating to the business and operations of the Debtors and its subsidiaries and/or any other agreement, certificate, instrument and other documents or statements (whether written or oral) related in any way to the foregoing (collectively with any other claims or causes of action which could be asserted by the Committee or the Debtors against the Partner Settlement Party Releasees (as defined below), the “Partner Settlement Party Claims”);

**WHEREAS**, in connection with the Investigation, the Debtors provided the Committee with responses to various informal discovery and diligence requests, and further conducted their own investigation of Partner Settlement Party Claims;

**WHEREAS**, the Partner Settlement Parties deny that the Committee or Debtors have any Partner Settlement Party Claims, or any other claims or causes of action against the Partner



Settlement Party Releasees (as defined below), and deny any and all of the Committee's allegations relating thereto;

**WHEREAS**, over the course of several months, the Parties have exchanged information and negotiated in good faith regarding the Partner Settlement Party Claims and the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, dated as of May 4, 2020, which shall include this Settlement Agreement as an Exhibit thereto (the "Plan").<sup>1</sup> The Plan shall be filed with the Bankruptcy Court contemporaneously herewith;

**WHEREAS**, following good faith and arm's length negotiations, in exchange for the releases and other valuable consideration provided for in the Plan and herein, the Parties have agreed to the settlement provided for herein (the "Plan Settlement"), and now desire to resolve, fully and finally, all matters respecting the Partner Settlement Party Claims, upon the terms and conditions set forth below; and

**WHEREAS**, the Parties believe that the Plan Settlement provides significant value to the Debtors and their Estates, favorably resolves and avoids potential protracted expensive and uncertain litigation, and enables the prompt and efficient wind-down of the Debtors' Estates through the Plan, and that the Plan Settlement is integral to the development and implementation of the Plan.

**NOW THEREFORE**, for good and valuable consideration, it is hereby stipulated, consented to and agreed by and among the Parties as follows:

1. **Effectiveness.** This Settlement Agreement shall be effective immediately upon the date on which the Confirmation Order becomes a Final Order (the "Agreement Effective Date").

2. **Implementation.** The Plan shall serve as a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the compromises and settlements provided for in the Plan Settlement, and the Bankruptcy Court's findings made in connection with the Confirmation Order shall constitute the Bankruptcy Court's determination that the compromises and settlements contained herein are in the best interests of the Debtors, their Estates, Holders of Claims and Interests and other parties in interest, and are fair, equitable, and reasonable.

3. **Settlement Amount.** The Partner Settlement Parties shall pay to the Debtors and/or their successor Estate representative(s) (the "Estate Representative") an aggregate cash payment of \$2,000,000.00 (the "Plan Settlement Payment"), in full payment, satisfaction and settlement of the Partner Settlement Party Claims. Subject to the prior receipt of appropriate wire instructions and tax forms, the Plan Settlement Payment shall be paid in full within ten (10) days of the Agreement Effective Date. Receipt by the Debtors of the Settlement Sum and the other

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings assigned thereto in the Plan.

consideration set forth herein shall constitute full and final payment, satisfaction and settlement of any and all Partner Settlement Party Claims.

4. **Waiver and Release of Claims by Partner Settlement Parties.** Effective as of the Agreement Effective Date, the Partner Settlement Parties, on behalf of themselves and any person or entity claiming by or through the Partner Settlement Parties, except as provided in section 8 below, (i) waive any and all claims and/or requests for payment, whether administrative, priority or unsecured in nature, that have been, could have been or could be asserted by the Partner Settlement Parties (or any person or entity claiming by or through the Partner Settlement Parties) against the Debtors and their Estates, including, without limitation, any and all claims asserted in the *Requests for Payment of Administrative Expense Claim For the Period From the Petition Date Through And Including March 31, 2019* filed at Docket Nos. 681 and 686 in the Chapter 11 Cases, the proofs of claim numbered 600, 601, 790 and 792 filed in the Chapter 11 Cases by, and any claims scheduled in the Schedules for, the Partner Settlement Parties, and (ii) grant the releases set forth in Section 11.11(b) of the Plan as if the Partner Settlement Parties are “Releasing Parties” for purposes of such section that did not timely submit a Release Opt-Out or did not File an objection to such releases.

5. **Waiver and Release of Claims by the Debtors and their Estates.** Effective as of the Agreement Effective Date, the Debtors and their Estates, on behalf of themselves and their respective affiliates (other than the Partner Settlement Parties), and, as may be permitted under applicable law, on behalf of current and former officers, managers, directors, employees, lenders, partners, professionals, advisors, agents, members, and other representatives, including, without limitation, attorneys, accountants, consultants, investment bankers and financial advisors and the successors, assigns or heirs of each of the foregoing, shall grant the releases provided for in Section 11.11 of the Plan to the Partner Settlement Party Releasees (as defined below) on behalf of themselves and their successors and assigns (the “Partner Settlement Release”), which releases shall knowingly and voluntarily release, waive and forever discharge to the fullest extent permitted by law each Partner Settlement Party and, with respect to each Partner Settlement Party, its current and former shareholders, officers, managers, directors, employees, lenders, partners, affiliates, professionals, advisors, agents, members, and other representatives, including, without limitation, attorneys, accountants, consultants, investment bankers and financial advisors and the successors, assigns or heirs of each such Partner Settlement Party (collectively with the Partner Settlement Parties, the “Partner Settlement Party Releasees”) from any and all Partner Settlement Party Claims.

6. **Plan Support; Committee Consent.** Each of the Partner Settlement Parties, the Debtors, and the Committee shall support the Confirmation and consummation of the Plan, including, without limitation, all of the releases provided for in the Plan. The Committee: (i) consents to and is bound by the releases provided for in Section 11.11 of the Plan and (ii) shall, subject to its fiduciary duty to creditors, use commercially reasonable efforts to obtain the third-party releases provided for in Section 11.11 of the Plan from all members of the Committee. Each Partner Settlement Party shall: (x) if entitled to do so, vote to accept the Plan; and (y) not object to or otherwise impede Confirmation of the Plan. The Debtors and Committee shall not amend or modify the Partner Settlement Release set forth in Section 11.11 of the Plan or the opt out procedures with respect to the third-party release contained therein (the “Release Provisions”), in

each case without the prior written consent of the Partner Settlement Parties. Each of (i) the Partner Settlement Party Releases set forth in Section 11.11 and (ii) the Debtor's release of the Plan Settlement Parties (as set forth in the Release Provisions) shall be in form and substance acceptable to the Partner Settlement Parties and the Committee. In addition, the Debtors and the Committee shall not amend or modify, or consent to any amendment or modification of, any other provision of the Plan in any manner that materially adversely impacts the Partner Settlement Parties without the prior written consent of the Partner Settlement Parties.

7. **Central States Claim.** Bechtel Global Corporation hereby agrees to enter into that certain *Indemnity Agreement* with Welded Construction, L.P., in the form set forth as Exhibit A hereto (the "Indemnity Agreement"), pursuant to which, among other things, the Debtors have agreed that their liability with respect to that certain proof of claim number 534 (as it may be amended, the "Withdrawal Liability Claim") filed by the Central States, Southeast and Southwest Areas Pension Fund (the "Central States") in the Chapter 11 Cases shall be determined in the arbitration against Central States demanded by Bechtel on January 8, 2020, by the filing of an arbitration demand with the American Arbitration Association (the "Arbitration"), and Bechtel Global Corporation has agreed to indemnify the Debtors against the Withdrawal Liability Claim. Bechtel Global Corporation (and no other party) shall be deemed to have standing in the Chapter 11 Cases to file and prosecute objections to the Withdrawal Liability Claim and any other Claims filed by Central States, including, without limitation, standing to file such objections, commence adversary proceedings or other contested matters against Central States, as may be necessary, as well as to assert any affirmative defenses, counterclaims, setoffs, claims for subordination or recharacterization, or Retained Causes of Action that the Debtors, their Estates or Post-Effective Date Debtors may hold against Central States; provided, however, that the Debtors and their Estates or the Estate Representative shall have the right to file and prosecute a motion to estimate the Withdrawal Liability Claim pursuant to section 502(c) of the Bankruptcy Code, solely in connection with establishing that, as a result of the protections afforded by the Indemnity Agreement, no reserve is required on account of such Withdrawal Liability Claim for Plan distribution purposes; provided further, that no such estimation motion shall seek a determination from the Bankruptcy Court as to the actual amount of the liability of the Debtors, if any, to Central States, which liability, if any, the Parties agree will be determined in the Arbitration.

8. **Letter of Credit Funds.** The Parties agree that any residual proceeds of the letter of credit posted for the benefit of Zurich American Insurance Company and its affiliates by Welded Construction, L.P., but paid for by Bechtel Corporation and/or its affiliates (the "**Residual LOC Proceeds**"), are not property of the Estates and shall not be deemed Assets that vest in the Post-Effective Date Debtors but shall be the sole and exclusive property of Bechtel Corporation and/or its affiliates. Any Residual LOC Proceeds that are refunded to the Debtors or the Post-Effective Date Debtors shall be forwarded to Bechtel Global Corporation or its applicable affiliate by the Plan Administrator within three (3) Business Days after receipt of such Residual LOC Proceeds.

9. **Cooperation.** The Parties agree to cooperate, in a commercially reasonable manner, in (i) the Williams Litigation, (ii) any actions or claims brought by the Debtors and/or Estate Representative against Columbia Gas Transmission LLC, and (iii) any actions or claims brought by the Debtors and/or Estate Representative against Earth Pipeline Services, Inc., in each case including but not limited to by responding to discovery requests and making available

pertinent witnesses to assist with fact investigation, depositions, and/or hearing testimony.

10. **Actions to Effectuate or Enforce Settlement Agreement.** Notwithstanding the provisions of Paragraphs 4 and 5 hereof and Section 11.11 of the Plan, the release provisions set forth therein shall not apply to the Parties' obligations under this Settlement Agreement or any actions relating to, or to enforce the terms of, this Settlement Agreement.

11. **Binding on Successors.** This Settlement Agreement and the rights and obligations created hereby shall be binding upon and shall inure to the benefit of the heirs, successors, transferees, and assigns of each of the Parties hereto. Except as provided in the Plan, neither this Settlement Agreement nor any of the rights or obligations hereunder may be assigned or delegated by any Party hereto, without the prior written consent of the other Parties hereto, other than in connection with the sale or transfer of all or a substantial portion of the business of any of the Partner Settlement Parties (regardless of the legal form).

12. **Amendments; Entire Agreement.** This Settlement Agreement shall not be modified, altered, or amended without the prior written consent of each of the Parties hereto. This Settlement Agreement constitutes the entire agreement of the Parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous agreements among the Parties concerning such subject matter. The Parties acknowledge that this Settlement Agreement is not being executed in reliance on any oral or written agreement, promise or representation not contained herein.

13. **Conflict in Terms.** In the event of any conflict between the terms of this Settlement Agreement and the Plan, the terms of this Settlement Agreement shall control.

14. **Reliance on Legal Counsel.** Each Party acknowledges that it is a sophisticated entity, that it has been represented in the negotiations for and in the execution of this Settlement Agreement by counsel of its own choice, and that it has read this Settlement Agreement and is fully aware of its contents and legal effect.

15. **Representation of Authority.** The Parties expressly represent and warrant that, no other person or entity has or had any interest in the Partner Settlement Party Claims or any other claims, demands, obligations, or causes of action covered by this Settlement Agreement; and that, subject to Bankruptcy Court approval of the Plan Settlement and this Settlement Agreement and confirmation of the Plan, each Party referenced herein has the authority to sign this Settlement Agreement, by and through its designated representative(s); and that no Party has sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement. The Parties each expressly represent and warrant that the consent, approval, or authorization of no other person, entity or governmental or regulatory authority, other than the Bankruptcy Court, is required to approve the terms of this Settlement Agreement in order for the releases set forth herein to be effective.

16. **Jurisdiction; Governing Law.** In the event of a dispute concerning this Settlement Agreement, including without limitation any action to enforce the terms hereof, the Parties agree and consent to the exclusive jurisdiction of the Bankruptcy Court. This Settlement Agreement and

all claims and disputes arising out of or in connection with this Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to choice of law principles to the extent such principles would apply a law other than that of the State of Delaware.

17. **Counterparts.** This Settlement Agreement may be executed in counterparts and by electronic or facsimile signatures, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement to be effective, provided each and every Party has executed and delivered, or caused to be delivered, to each other Party at least one counterpart of this Settlement Agreement signed by that Party.

18. **Drafting.** The Parties have participated in and jointly consented to the drafting of this Settlement Agreement, and any claimed ambiguity shall not be construed for or against either of the Parties on account of such drafting.

19. **No Admissions.** This Settlement Agreement and all negotiations, statements and proceedings in connection therewith are not intended to be and shall not in any event be construed or deemed to be, or represented or caused to be represented as, an admission or concession or evidence of any fault, liability or wrongdoing whatsoever. Neither this Settlement Agreement nor any matter relating to it may be offered or received in evidence or otherwise referred to in any civil, criminal, or administrative action or proceeding as evidence of any wrongdoing or liability.

20. **Specific Performance.** The Parties hereto agree that irreparable damage would occur and that the Parties hereto would not have any adequate remedy at law in the event that any of the provisions of this Settlement Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each Party hereto shall be entitled to seek an injunction or injunctions to prevent breaches or threatened breaches of this Settlement Agreement and to seek to enforce specifically the terms and provisions of this Settlement Agreement (and, to the fullest extent permitted by law, each party hereto hereby waives any requirement for the securing or posting of any bond in connection with such remedy), this being in addition to any other remedy to each such Party is entitled at law or in equity. For the avoidance of doubt, this paragraph shall not modify the Debtors' and/or the Estate Representative's rights of indemnification as set forth in the Indemnity Agreement.

21. **Notice.** All notices or other communications that any Party desires or wishes to give under this Settlement Agreement shall be given in writing and shall be sent by first class mail, hand delivery or overnight courier (with a courtesy copy sent by email) to the other Party or Parties via their counsel at the addresses stated in the signature pages below or such other addressees as a Party may designate for itself in writing.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the undersigned have caused this Settlement Agreement to be duly executed, effective as of the date first written above.

The Official Committee of Unsecured Creditors of Welded Construction, L.P. and its affiliated debtor, as the Committee

Bechtel GP, Bechtel LP, Bechtel Corporation, Bechtel Global Corporation, Bechtel Oil, Gas and Chemicals, Inc., McCaig GP, and McCaig LP, as Partner Settlement Parties

Name: Michael B. Schaedle

Name: \_\_\_\_\_

By: [Signature]  
Counsel

By: \_\_\_\_\_  
Counsel

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Email: mrosenthal@gibsondunn.com  
Email: mkelsey@gibsondunn.com

Welded Construction, L.P. and Welded Construction Michigan, LLC, as Debtors

Name: \_\_\_\_\_

By: \_\_\_\_\_  
Counsel

YOUNG CONAWAY STARGATT & TAYLOR, LLP  
Sean M. Beach, Esq.  
Matthew B. Lunn, Esq.  
1000 North King Street  
Wilmington, Delaware 19801  
Telephone: (302) 571-6699  
Telephone: (302) 571-6621  
Email: sbeach@ycst.com

*[Signature Page to Settlement Agreement]*

**IN WITNESS WHEREOF**, the undersigned have caused this Settlement Agreement to be duly executed, effective as of the date first written above.

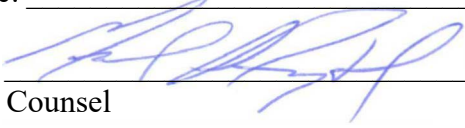
The Official Committee of Unsecured Creditors of Welded Construction, L.P. and its affiliated debtor, as the Committee

Bechtel GP, Bechtel LP, Bechtel Corporation, Bechtel Global Corporation, Bechtel Oil, Gas and Chemicals, Inc., McCaig GP, and McCaig LP, as Partner Settlement Parties

Name: \_\_\_\_\_

Name: Michael A. Rosenthal  
\_\_\_\_\_

By: \_\_\_\_\_  
Counsel

By:   
Counsel

BLANK ROME LLP  
Michael B. Schaedle, Esq.  
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Welded Construction, L.P. and Welded Construction Michigan, LLC, as Debtors

Name: \_\_\_\_\_

By: \_\_\_\_\_  
Counsel

YOUNG CONAWAY STARGATT & TAYLOR, LLP  
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Matthew B. Lunn, Esq.  
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Name: \_\_\_\_\_ Name: \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_  
Counsel Counsel

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Welded Construction, L.P. and Welded Construction Michigan, LLC, as Debtors

Name:   
By: Sean M. Beach  
Counsel

YOUNG CONAWAY STARGATT & TAYLOR, LLP  
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*[Signature Page to Settlement Agreement]*



Email: [mlunn@ycst.com](mailto:mlunn@ycst.com)

**EXHIBIT A**

**Indemnity Agreement**

## INDEMNITY AGREEMENT

**THIS INDEMNITY AGREEMENT** (“Agreement”) is entered into this 18th day of June, 2020, by Bechtel Global Corporation (“Bechtel” or “Indemnitor”) and Welded Construction, L.P., on behalf of itself, its estate in the Bankruptcy Proceeding (as defined below), and including any successor thereto under the Plan (as defined below) as an estate representative (“Welded”) (together, the “Parties”).

**WHEREAS**, Welded and its wholly-owned subsidiary Welded Construction Michigan, LLC (collectively, the “Debtors”) are debtors in a Chapter 11 proceeding (“Bankruptcy Proceeding”) pending in the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”);

**WHEREAS**, the Central States, Southeast and Southwest Areas Pension Fund (“Fund”) on February 26, 2019, filed Claim #534 (“Claim”) in the Bankruptcy Proceeding in the amount of \$38,813,994.99 related to an alleged complete withdrawal from the Fund under ERISA § 4203(a);

**WHEREAS**, on April 24, 2019, the Fund assessed withdrawal liability against Bechtel in the same amount related to the same alleged complete withdrawal (“Demand”);

**WHEREAS**, the Fund asserts that the Parties were members of the same controlled group of corporations as defined in ERISA § 4001(b) during the relevant time related to the Claim and Demand and thus are jointly and severally liable in the event there is liability;

**WHEREAS**, the Parties agree that substantially the same set of operative facts, as well as most of the defenses and/or counterclaims apply to both Bechtel and Welded;

**WHEREAS**, Bechtel initiated arbitration against the Fund with the American Arbitration Association, Case No. 01-20-0000-0757, on January 8, 2020 (“Bechtel Arbitration”);

**WHEREAS**, Welded initiated arbitration against the Fund with the American Arbitration Association, Case No. 01-20-0000-1812, on January 16, 2020 (“Welded Arbitration”);

**WHEREAS**, Welded has filed the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, dated as of May 4, 2020, which is in form and substance acceptable to the Debtors and the Official Committee of Unsecured Creditors (the “Committee”), and includes a settlement agreement by and among the Debtors, the Committee, Bechtel, certain other Bechtel entities, McCaig GP, and McCaig LP that is acceptable to Bechtel and Welded (the “Plan”);<sup>1</sup>

**AND WHEREAS**, the Parties agree that this Agreement benefits the estate and its creditors in the Bankruptcy Proceeding and increases judicial efficiency;

**NOW, THEREFORE**, for and in consideration of the promises and agreements

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Plan.

hereinafter set forth, the Parties agree as follows:

1. **Indemnity and Duty to Defend.** From the date of this Agreement, Bechtel hereby indemnifies each of the Debtors and each of their respective successors, assigns and subsidiaries, including any plan trustees, liquidating trusts, liquidating trustees, plan administrators, or liquidating agents of the Debtors' estates under any plan of reorganization, and each of their respective officers and directors (collectively "Welded Indemnitees") for any amounts that the Welded Indemnitees owe to the Fund as a result of a final award to the Fund in the Bechtel Arbitration or the Welded Arbitration or otherwise in any related action, proceeding or appeal (whether in the Bechtel Arbitration, the Welded Arbitration, or in another court or adjudicatory/appellate body of competent jurisdiction (including but not limited to withdrawal liability, interim payments, interest, liquidated damages, surcharges, and attorneys' fees or costs awarded to the Fund). Bechtel shall reimburse the Welded Indemnitees for any such amounts paid by the Welded Indemnitees within five (5) business days of such payment by Federal Reserve wire transfer as further specified in the Plan (for the avoidance of doubt, if the Welded Indemnitees lack sufficient funds to make payments subject to this paragraph and under the Plan, then Bechtel shall make such payments directly). From the date of this Agreement, Bechtel agrees to defend the Welded Indemnitees against any and all claims, demands, or actions of any kind whatsoever in law or in equity, which the Fund has brought, or may in the future bring, against the Welded Indemnitees in the Bechtel Arbitration or the Welded Arbitration, or any appeals thereof or collection actions related thereto, or in any related action, proceeding or appeal (whether in the Bechtel Arbitration, the Welded Arbitration, or in another court or adjudicatory/appellate body of competent jurisdiction).

2. **Estimation of the Claim Reserve.** Welded agrees that it will move the Bankruptcy Court to estimate the reserve for the Claim in the Bankruptcy Proceeding for distribution purposes at \$0.00, and Bechtel shall have the right to review and consent to any such pleading before it is filed with the Bankruptcy Court; provided, however, that this Agreement is not conditioned upon the outcome of such claim estimation proceeding.

3. **Claim Adjudication.** The Parties agree that, except with respect to the estimation of the Claim reserve for distribution purposes in the Bankruptcy Proceeding, the Claim shall be fully adjudicated in the Bechtel Arbitration and/or the Welded Arbitration, and Bechtel shall, on behalf of Welded, lead any such arbitration litigation (at Bechtel's sole expense) and any appeals thereof. Welded agrees that it shall not proceed with the Welded Arbitration without the prior written consent of Bechtel.

4. **Authority to Settle.** Bechtel shall have the right in its absolute and sole discretion to control and direct any settlement negotiations regarding the Claim and/or regarding the Welded Arbitration.

5. **Cooperation.** The Parties agree to cooperate, in a commercially reasonable manner, in any (i) proceeding or contested matter in the Bankruptcy Court to estimate the Claim or determine whether a reserve should be established for it (the "Reserve Proceeding"), and (ii) in the Bechtel Arbitration and/or in the Welded Arbitration. Such cooperation shall include, but not be limited to responding to discovery requests and making available pertinent witnesses to assist

with fact investigation, depositions, and/or hearing testimony. Bechtel agrees to reimburse the Welded Indemnites for reasonable costs and expenses incurred by the Welded Indemnites for work Bechtel requests pursuant to this Paragraph 5 in connection with the Bechtel Arbitration and/or the Welded Arbitration; *provided, however*, that Bechtel shall not be obligated to reimburse the Welded Indemnites for any costs and expenses related to (i) the Reserve Proceeding or (ii) the first \$200,000 of reasonable fees and expenses incurred by Welded from and after the date of this Agreement for work Bechtel requests in connection with the Bechtel Arbitration and/or the Welded Arbitration.

6. **Representation of Financial Capability.** Bechtel represents and warrants that it is a wholly owned primary operating subsidiary of Bechtel Corporation and that it is appropriately capitalized to undertake the obligations herein. By the date of this Agreement, Bechtel Corporation shall provide Welded (with a copy to the Committee) a secretary's certificate confirming this representation.

7. **Counterparts and Originals.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute and be one and the same instrument. Copies of this executed Agreement shall have the same effect as an original.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of Delaware.

9. **Jurisdiction.** The Parties irrevocably and unconditionally submit to the jurisdiction of the Bankruptcy Court solely with respect to any and all disputes regarding the effect, scope, or interpretation of this Agreement.

10. **Successors and Assigns.** This Agreement shall be binding upon each Party's successors and assigns, including without limitation, liquidating trusts, liquidating trustees, fiduciaries and representatives of the Debtors' estates. This Agreement may only be transferred consistent with the terms of the Plan.

*[Signature page follows]*

IN WITNESS WHEREOF, the Indemnitor has executed this Agreement this 18th day of June, 2020.

**Bechtel**

By: 

Name: Clifton S. Rankin

Title: Deputy General Counsel, Bechtel Global Corporation

**Welded**

By: \_\_\_\_\_

Name: Frank Pometti

Title: Chief Restructuring Officer, Welded Construction, L.P.

IN WITNESS WHEREOF, the Indemnitor has executed this Agreement this 18th day of June, 2020.


**Bechtel**

By: \_\_\_\_\_

Name: Clifton S. Rankin

Title: Deputy General Counsel, Bechtel Global Corporation

**Welded**

By:  \_\_\_\_\_

Name: Frank Pometti

Title: Chief Restructuring Officer, Welded Construction, L.P.

**EXHIBIT B**

Surety Cooperation Agreement Order



**IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF DELAWARE**

	)	
In re:	)	Chapter 11
	)	
WELDED CONSTRUCTION, L.P., <i>et al.</i> , <sup>1</sup>	)	Case No. 18-12378 (KG)
	)	
Debtors.	)	(Jointly Administered)
	)	<b>Ref. Docket No.</b> ____

**ORDER APPROVING LITIGATION FUNDING AND COOPERATION AGREEMENT**

Upon consideration of the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for the entry of an order, pursuant to sections 105(a), 363(b), and 364(c) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”); Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”); and Rule 4001-2 of the Local Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), (i) approving that certain *Litigation Funding and Cooperation Agreement*, attached hereto as Exhibit 1 (the “**Cooperation Agreement**”), by and among Welded Construction, LP (“**Welded**”), Federal Insurance Company (the “**Surety**”) and the Official Committee of Unsecured Creditors (the “**Committee**” and, together with Welded and the Surety, the “**Parties**”), and (ii) authorizing the Debtors to take any and all actions necessary to effectuate the Cooperation Agreement; and upon consideration of the Motion and all pleadings related thereto; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion and the relief provided for herein is required; and it

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is 26933 Eckel Road, Perrysburg, OH 43551.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order herewith consistent with Article III of the U.S. Constitution; and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and creditors and an appropriate exercise of the Debtors' business judgment; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. The Cooperation Agreement, attached to this Order as Exhibit 1 and incorporated herein by reference as if set forth in full (including, without limitation, the estate sharing arrangement contained in paragraph 3 of the Cooperation Agreement), is approved in its entirety pursuant to sections 105(a), 363(b), and 364(c).
3. The Debtors are authorized to enter into the Cooperation Agreement, comply with their obligations thereunder, and to take all actions necessary to carry out the terms of the Cooperation Agreement.
4. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
5. This Court shall retain jurisdiction with respect to all matters arising from or related to the Cooperation Agreement and the implementation of this Order.



KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**Cooperation Agreement**

## LITIGATION FUNDING AND COOPERATION AGREEMENT

THIS LITIGATION FUNDING AND COOPERATION AGREEMENT (the “**Agreement**”) is made and entered into as of the 3rd day of May, 2019, by and between:

- 1) FEDERAL INSURANCE COMPANY (“**Surety**”),
- 2) WELDED CONSTRUCTION, LP (“**Debtor**”), and
- 3) OFFICIAL COMMITTEE OF UNSECURED CREDITORS (“**Committee**”) (all entities recited above, collectively, the “**Parties**”).

### WITNESSETH:

WHEREAS, Surety, on behalf of and at the request of Debtor, issued Performance Bond no. 8219-24-58 (the “**Bond**”) in the amount of \$454,471,254, naming Debtor as principal and Transcontinental Gas Pipe Line Company, LLC (“**Transcon**”) as obligee, relating to a construction contract dated August 10, 2016 between Debtor and Transcon (a company indirectly owned by Williams Partners Operating LLC and Williams Companies, Inc., (collectively, “**Williams**”)) for construction work on the Atlantic Sunrise natural gas pipeline (the “**Williams Project**”);

WHEREAS, as consideration for the issuance of the Bond, Debtor executed the General Indemnity Agreement dated February 27, 2017 (the “**Indemnity Agreement**”), pursuant to which Debtor agreed, among other things, to indemnify and hold Surety harmless from any losses incurred by Surety as a result of having issued the Bond;

WHEREAS, Surety has received claims on the Bond in excess of \$74 Million and has paid in excess of \$33 Million to date. Pursuant to the Surety’s right of equitable subrogation, the Surety asserts that it has a right to all contract balances due under the Williams Contract to the extent the Surety has satisfied claims made by subcontractors and suppliers under the Bond and further asserts that such right is superior to any right of the Debtor or any creditor of the Estate in the contract balances;

WHEREAS, the Debtor and the Committee have discussed the equitable subrogation rights with the Surety and the Parties have agreed to consent to such equitable subrogation rights, subject to the sharing arrangement set forth herein;

WHEREAS, without limiting other claims or causes of action that the Debtor or any other party in interest has or may have against Transcon, the Debtor has asserted that Transcon has failed to pay all of the amounts due to the Debtor under the Williams Contract and that such failure has contributed to Debtor’s inability to pay the subcontractors and suppliers on the Williams Project. The Debtor is prepared to prosecute affirmative claims against Transcon and Williams arising under or in relation to the Williams Project, including any contract or agreement related thereto with Transcon, Williams or either of their affiliates (the “**Williams Contract**”) for, among other things, the underpayments and other associated claims (the “**Williams Claims**”). The Parties agree that the net proceeds of any recovery on the Williams Claims should be paid to subcontractors and suppliers on the Williams Project, or otherwise to

the Surety pursuant to its equitable subrogation rights to the extent the Surety has satisfied claims made by subcontractors and suppliers under the Bond; provided, however, that the Surety has agreed to sharing a portion of the recovery on the Williams Claims, including any settlement thereof, with the Debtor's estate (the "**Estate**") for the benefit of the creditors in the Bankruptcy Case (as defined below);

WHEREAS, on October 22, 2018, the Debtor and Welded Construction Michigan, LLC (the "**Michigan Debtor**") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") and are currently operating as debtors-in-possession in cases jointly-administered under case no. 18-12378 (the "**Bankruptcy Case**");

WHEREAS, the Debtor and Surety are parties to that certain Joint Defense and Common Interest Agreement dated December 23, 2018 (the "**Debtor Joint Defense Agreement**") and the Committee and the Surety are parties to that certain Joint Defense and Common Interest Agreement dated as of February 6, 2019, (the "**Committee Joint Defense Agreement**") (the Debtor Joint Defense Agreement, the Committee Joint Defense Agreement and any other joint defense or common interest agreements by and between any of the Parties, whether or not in writing, are collectively referred to hereafter as the "**Joint Defense Agreements**");

WHEREAS, the Surety has agreed to provide funding to allow the Debtor to pursue the Williams Claims under the terms set forth in this Agreement; and

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Litigation Costs. The Surety agrees to fund up to a maximum of \$2,500,000, subject to increase with the prior written consent of the Parties (the "**Litigation Fund**") for fees and costs actually incurred in prosecuting the claims and defenses of the Debtor arising under or in relation to the Williams Claims (the "**Williams Litigation**"). The Litigation Fund, to be further identified in a confidential budget provided solely to the Parties, shall be used to pay the fees and expenses of Young Conaway Stargatt & Taylor, LLP (counsel to the Debtor), Lewis Brisbois Bisgard & Smith LLP, AlixPartners, LLP, litigation consultants, experts, contractors, and e-Discovery vendors related solely to the extent of work performed or costs incurred in connection with the Williams Litigation, but shall not be used to pay the fees and expenses of any other entity, including but not limited to, the Committee appointed in the Bankruptcy Case or its professionals. Upon 30 days written notice to the Debtor, the Surety may terminate the obligation to fund the Williams Litigation for any fees or costs incurred from and after the expiration of such notice period (a "**Funding Termination Event**"); *provided, however*, that a decision by the Surety not to fund any amounts in excess of \$2,500,000 to the Litigation Fund shall not be deemed a Funding Termination Event. Upon a Funding Termination Event where the Debtor determines to proceed with prosecuting the Williams Litigation utilizing funds not provided by Surety, the Surety shall be entitled to reimbursement of any costs advanced by Surety under this Agreement pro-rata with any costs incurred by Debtor and its estate prior to any other disposition of the proceeds of a recovery in the Williams Litigation, if any, obtained

from prosecution or settlement of the Williams Litigation. If a Funding Termination Event occurs, except with respect to pro-rata reimbursement of the Surety's litigation costs, the Surety shall be deemed to have released its first priority interest and liens in the Recovery (as defined below). For avoidance of doubt, the Surety shall at all times retain its rights under the Indemnity Agreement, subject only to the terms of this Agreement.

2. Reimbursement of Surety from Litigation Proceeds. Unless there is a Funding Termination Event where the terms of Paragraph 1 shall apply, in the event of any recovery by the Debtor as a result of a judgment in, or settlement of, the Williams Litigation (the "**Recovery**"), the Surety shall be reimbursed only from and to the extent of the Recovery for all amounts advanced by the Surety into the Litigation Fund (to the extent that such amounts exceed the \$2,500,000 maximum amount set forth above such excess shall have been consented to in writing by each of the Parties). The Surety shall be granted a first priority lien on only the Recovery and on no other assets or property of the Debtor, the Michigan Debtor, the Debtor's estate or the Michigan Debtor's estate, or the proceeds thereof, which lien shall be approved by the Bankruptcy Court as a condition of this Agreement. The reimbursement to Surety under this paragraph shall be made prior to any other disposition of the Recovery. In the event that there is no Recovery or the Recovery is less than the amount advanced in the Litigation Fund, the Surety shall have a general unsecured, non-priority claim against the Debtor for the unpaid amounts advanced under this Agreement.

3. Estate Sharing Arrangement and Related Matters: The Parties agree to the following sharing arrangement with respect to the disposition of the proceeds of a recovery in the Williams Litigation:

(a) Unless there is a Funding Termination Event where the terms of Paragraph 1 shall apply, the Surety shall receive reimbursement of all amounts advanced for the Williams Litigation in accordance with Paragraph 2 with the remaining proceeds after such reimbursement defined for purposes of this Agreement as the "**Net Proceeds.**"

(b) The Estate shall receive from the Net Proceeds the lesser of \$250,000 or the Net Proceeds ("**Estate Reimbursement**") to cover the costs incurred by the Estate for maintaining staff and other resources necessary for the litigation of the Williams Claims.

(c) In addition to the Estate Reimbursement, the Estate will receive one of the following mutually exclusive payments:

(1) Where the Net Proceeds are less than or equal to \$5 million, the Estate will receive 10% of the Net Proceeds inclusive of the Estate Reimbursement. For example, if the Net Proceeds are equal to \$3 million, the Estate will receive \$50,000 in addition to the Estate Reimbursement.

(2) Where the Net Proceeds are greater than \$5 million and less than or equal to \$10 million, the Estate will receive \$750,000 in addition to the Estate Reimbursement (\$1 million total).

(3) Where the Net Proceeds are greater than \$10 million, the Estate shall receive 10% of the Net Proceeds inclusive of the Estate Reimbursement. For example, if the Net Proceeds are equal to \$12 million, the Committee will receive \$950,000 in addition to the Estate Reimbursement.

(d) The Surety will share in any payments to the general unsecured creditor class on the basis of any allowed Surety unsecured, non-priority claim hereunder or under or in respect of the Bond and the Indemnity Agreement, to the extent such claim has been allowed pursuant to applicable bankruptcy law or by final, unstayed Bankruptcy Court order.

(e) The Surety shall provide each of the Debtor and the Committee with a monthly, confidential, detailed accounting of payments it makes to claimants under the Bond. The Surety shall use its reasonable, best efforts to make payments on each outstanding claim submitted under the Bond by no later than June 30, 2019 and to the extent permitted by applicable law, so long as such claimant has provided appropriate documentation to the Surety pertaining to its claim.

4. Cooperation and Settlement Authority. The Parties shall reasonably cooperate with respect to the Williams Litigation, including information that may be requested by any Party, and the Debtor shall keep the Surety and the Committee advised of all material matters relating to the Williams Litigation. The Debtor agrees to consult with the Surety and the Committee in advance of, and allow the Surety and the Committee to participate in, any settlement negotiations relating to the Williams Litigation, as well as any final disposition of the Williams Litigation. Additionally, upon request of the Surety or the Committee, subject to the Joint Defense Agreements, the Debtor shall provide a confidential update to the Surety and the Committee of the then current status of the Williams Litigation and shall consult with the Surety and the Committee regarding any litigation issues that may materially impact the success of the Williams Litigation.

(a) Nothing in this Agreement shall be deemed to preclude the Surety from (i) settling, for itself only, any claims made by subcontractors, suppliers, and assignees of subcontractors and suppliers under the Bond on terms acceptable to the Surety in its sole and absolute discretion, or (ii) obtaining from Williams a release of Surety's liability under the Bond on terms acceptable to Surety in its sole discretion.

(b) Nothing herein shall be deemed to waive any terms, conditions or limitations contained in the Bond, including, without limitation, the penal limit thereof and the Bond shall remain in full force and effect.

(c) Nothing in this Agreement shall be deemed to limit or alter the Debtor's exercise of its fiduciary duties or the Debtor's rights and defenses against the Surety or in any way related to the Bond or the Indemnity Agreement.

5. Joint Defense. The Parties agree that the terms of the Joint Defense Agreements shall govern all communications between the Parties with respect to this Agreement or the

Williams Litigation, ensuring that all communications between the Parties related to such proceedings are protected by all applicable privileges, including but not limited to the attorney-client privilege, the work product doctrine, the self-critical examination privilege, the trade secret doctrine, and the common interest privilege.

6. Governing Law. This Agreement is entered into in the State of Delaware and shall be governed by and construed in accordance with the laws of the State of Delaware. Any dispute by and between the Debtor and the Surety shall be adjudicated by the United States Bankruptcy Court for the District of Delaware.

7. Bankruptcy Court Approval. This Agreement is subject to approval by the Bankruptcy Court pursuant to a final, unstayed order of the Bankruptcy Court (the finality requirement may be waived by the Parties in writing), which is acceptable to the Parties.

IN WITNESS WHEREOF, this Agreement is executed by the parties on the day and date first set forth above.

/s/ Sean M. Beach  
YOUNG CONAWAY STARGATT &  
TAYLOR, LLP  
Sean M. Beach (No. 4070)  
Matthew B. Lunn (No. 4119)  
Robert F. Poppiti, Jr. (No. 5052)  
Tara C. Pakrouh (No. 6192)  
Rodney Square  
1000 North King Street  
Wilmington, DE 19801  
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*Counsel to the Debtors*

/s/ Michael E. Collins  
MANIER & HEROD, P.C.  
Sam H. Poteet Jr.  
Michael E. Collins  
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Nashville, TN 37203  
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*Counsel to Federal Insurance Company and  
Affiliated Sureties*

/s/ Michael B. Schaedle  
BLANK ROME LLP  
Josef W. Mintz (DE No. 5644)  
Jose F. Bibiloni (DE No. 6261)  
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Michael B. Schaedle (admitted *pro hac vice*)  
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Telephone: (215) 569-5762  
Telephone: (215) 569-5442  
Email: Schaedle@BlankRome.com  
Lucian@BlankRome.com

*Counsel to the Official Committee of Unsecured  
Creditors of Welded Construction, L.P., et al.*



**EXHIBIT B**

**Notice of Confirmation and Effective Date**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	
	)	Chapter 11
	)	
WELDED CONSTRUCTION, L.P., <i>et al.</i> , <sup>1</sup>	)	Case No. 18-12378 (CSS)
	)	
Debtors.	)	(Jointly Administered)
	)	<b>Ref. Docket No. [●]</b>

**NOTICE OF (I) CONFIRMATION AND EFFECTIVE DATE OF THE  
AMENDED CHAPTER 11 PLAN OF WELDED CONSTRUCTION, L.P. AND WELDED  
CONSTRUCTION MICHIGAN, LLC AND (II) DEADLINE UNDER THE PLAN AND  
CONFIRMATION ORDER TO FILE PROFESSIONAL FEE CLAIMS,  
ADMINISTRATIVE CLAIMS AND REJECTION CLAIMS**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. **Entry of Confirmation Order.** On June \_\_\_\_, 2020, the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) entered an order [Docket No. \_\_\_\_] (the “**Confirmation Order**”) confirming the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, attached as Exhibit A to the Confirmation Order (together with all exhibits thereto, and as may be amended, modified or supplemented, the “**Plan**”)<sup>2</sup> in the chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”).
  
2. **Effective Date of the Plan.** The Effective Date of the Plan was \_\_\_\_\_, 2020.
  
3. **Deadline to File Professional Fee Claims.** As provided for in Section 11.2 of the Plan and in the Confirmation Order, *all final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, and counsel to the U.S. Trustee no later than \_\_\_\_, 2020 (i.e., thirty (30) days after the Effective Date), unless otherwise ordered by the Bankruptcy Court.* **Objections to such applications must be Filed and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, counsel to the Committee, counsel to the U.S. Trustee and the requesting Professional on or before the date that is fourteen (14) days after the date on which the applicable application was served (or such longer period as may be allowed by Order of the Bankruptcy Court or by agreement with the requesting Professional).**

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

<sup>2</sup> Unless otherwise defined in this notice, capitalized terms used in this notice shall have the meanings ascribed to them in the Plan.

4. **Administrative Claim Bar Date.** As provided for in Section 11.1 of the Plan and in the Confirmation Order, *all requests for payment of an Administrative Claim arising on or after April 1, 2019 must be Filed with the Bankruptcy Court and served on counsel to the Plan Administrator, counsel to the Post-Effective Date Debtors, and counsel to the U.S. Trustee no later than \_\_\_\_, 2020 (i.e., thirty-five (35) days after the Effective Date).*

5. **Deadline to File Rejection Claims.** As provided for in Article VI of the Plan and in the Confirmation Order: *(i) on the Effective Date, all executory contracts and unexpired leases of the Debtors that have not been assumed, assumed and assigned, or rejected, prior to the Effective Date or are not subject to a motion to assume or reject Filed before the Effective Date, shall be deemed rejected, pursuant to the Confirmation Order, as of the Effective Date, other than the Plan Settlement Agreement, the Indemnity Agreement, the Litigation Funding and Cooperating Agreement and the Insurance Contracts, including, without limitation, those identified in the Plan Supplement; (ii) any Creditor asserting a Rejection Claim shall File a proof of claim with the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, at the address below, no later than \_\_\_\_, 2020 (i.e., thirty-five (35) days after the Effective Date) and shall also serve such proof of claim upon the Plan Administrator; and (iii) any Rejection Claims that are not timely Filed shall be forever disallowed and barred.*

Welded Construction Claims Processing Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, CA 90245

6. **Inquiries by Interested Parties.** Copies of the Confirmation Order (to which the Plan is attached as Exhibit A) may be examined free of charge at <https://www.kccllc.net/welded> by clicking on the link on the left hand side of the page titled "Confirmation Order". The Confirmation Order is also on file with the Bankruptcy Court and may be viewed by accessing the Bankruptcy Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). To access documents on the Bankruptcy Court's website, you will need a PACER password and login, which can be obtained at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov).

Dated: [●], 2020  
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Allison S. Mielke*

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Sean M. Beach (No. 4070)  
Matthew B. Lunn (No. 4119)  
Robert F. Poppiti, Jr. (No. 5052)  
Allison S. Mielke (No. 5934)  
Betsy L. Feldman (No. 6410)  
Rodney Square  
1000 North King Street  
Wilmington, DE 19801  
Telephone: (302) 576-3279  
Facsimile: (302) 571-1253

*Counsel to the Debtors*

**EXHIBIT C**

**Parent Company Guarantee Agreement**

## PARENT COMPANY GUARANTEE

**THIS PARENT GUARANTEE** (this “**Agreement**”) is entered into this 18<sup>th</sup> day of June 2020, by Bechtel Corporation, corporation organized under the laws of Nevada (“**Guarantor**”) and Welded Construction, L.P., a limited partnership organized under the laws of Delaware (the “**Company**”) (each, a “**Party**” and, together, the “**Parties**”).

**WHEREAS**, Bechtel Global Corporation, a corporation organized under the laws of Delaware (“**BGC**”) and the Company are parties to that certain Indemnity Agreement dated as of June 17th, 2020 and attached hereto as Exhibit A (the “**Indemnity Agreement**”), pursuant to which BGC has agreed to indemnify and defend the Company and its wholly-owned subsidiary, Welded Construction Michigan, LLC, a limited liability company organized under the laws of Michigan (“**Welded Michigan**”), and each of their respective successors, assigns and subsidiaries, including any plan trustees, liquidating trusts, liquidating trustees, plan administrators, or liquidating agents of the Debtors’ estates under any plan of reorganization, and each of their respective officers and directors (collectively, with the Company and Welded Michigan, “**Welded**”) in accordance with the terms and conditions of the Indemnity Agreement;

**WHEREAS**, the Guarantor owns all of the issued and outstanding stock of BGC;

**WHEREAS**, the Guarantor has agreed to guarantee to Welded the due and proper performance by BCG all of BCG’s obligations, warranties, duties and undertakings under and pursuant to the Indemnity Agreement (the “**Obligations**”) upon the terms of this Agreement; and

**WHEREAS**, the Company has agreed to accept this Guarantee in lieu of the requirement of Guarantor to provide a Secretary’s Certificate pursuant to paragraph 6 of the Indemnity Agreement.

**NOW, THEREFORE**, for and in consideration of the foregoing and the promises and agreements hereinafter set forth, and for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Guarantor guarantees to Welded the due and punctual payment and performance by BCG of each and all the Obligations when and if such Obligations shall become due and performable according to the terms of the Indemnity Agreement, in all cases without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Guarantor, provided however, Guarantor shall immediately and automatically pay and perform (as applicable) each of the Obligations in the event that BGC:
  - (a) generally fails to pay, or admits in writing its inability to pay, its debts as they become due;
  - (b) voluntarily ceases to conduct its business in the ordinary course;


- (c) merges with or is acquired by any entity other than Guarantor or any of Guarantor's wholly owned direct or indirect subsidiaries;
  - (d) commences or has commenced against it (i) any case, action or proceeding before any court or other governmental authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (ii) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (i) and (ii) above, undertaken under United States Federal, state or foreign law, including 11 U.S.C. § 101 et seq.; or
  - (e) takes any action to effectuate or authorize any of the foregoing.
2. Notwithstanding anything to the contrary contained herein:
- (a) the Guarantor's obligations under this Agreement shall be no greater than the Obligations under the Indemnity Agreement; and
  - (b) no provision contained in this Agreement shall be construed as or constitute a waiver or release by the Guarantor of, and Guarantor shall be entitled to the full benefit of, all defenses, limitations, conditions, rights and remedies that are or would have been available to BCG under the Indemnity Agreement.
3. For the avoidance of doubt, Welded will not be entitled to double recovery in respect of the same portion of claim and any payments, or performance made by the Guarantor hereunder shall automatically release BGC to the extent of such recovery from or performance by the Guarantor.
4. The Guarantor represents and warrants as follows:
- (a) the Guarantor is a corporation duly organized, validly existing and in good standing under the laws of Nevada and has all requisite power and authority to execute and deliver this Agreement, and to perform its obligations hereunder;
  - (b) the execution and delivery of this Agreement, and the performance by the Guarantor of its obligations hereunder, have been duly authorized by all requisite action on the part of the Guarantor, and do not conflict with or contravene: (i) any provision of law applicable to the Guarantor, (ii) the Guarantor's constitutional documents; or (iii) any contractual restriction binding on the Guarantor or its assets; and
  - (c) it is appropriately capitalized to undertake the obligations set forth in this Agreement.
5. Guarantors may assign all or a portion of its obligations hereunder to an affiliate or to an

entity managed by an affiliate of the Guarantor provided that no such assignment shall relieve Guarantor of any liability or obligation hereunder except to the extent actually performed or satisfied by the assignee.

6. This Agreement constitutes the entire agreement between the Guarantor and the Company with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, expressed, implied or statutory, between the Parties other than as expressly set forth herein.
7. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute and be one and the same instrument. Copies of this executed Agreement shall have the same effect as an original.
8. This Agreement shall be construed and enforced in accordance with the laws of Delaware.
9. This Agreement shall be binding upon each party's successors and assigns, including without limitation, liquidating trusts, liquidating trustees, fiduciaries and representatives of the Welded estates.

IN WITNESS WHEREOF, the Parties have executed this Agreement on this 18<sup>th</sup> day of June, 2020.

**Guarantor**

By:   
Name: Michael C. Bailey  
Title: Senior Vice President, Bechtel Corporation

**Company**

By: \_\_\_\_\_  
Name: Frank Pometti  
Title: Chief Restructuring Officer, Welded Construction, L.P.

entity managed by an affiliate of the Guarantor provided that no such assignment shall relieve Guarantor of any liability or obligation hereunder except to the extent actually performed or satisfied by the assignee.

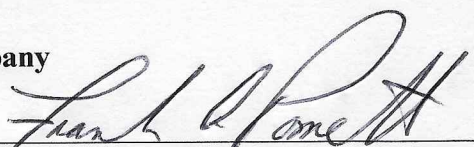
6. This Agreement constitutes the entire agreement between the Guarantor and the Company with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, expressed, implied or statutory, between the Parties other than as expressly set forth herein.
7. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute and be one and the same instrument. Copies of this executed Agreement shall have the same effect as an original.
8. This Agreement shall be construed and enforced in accordance with the laws of Delaware.
9. This Agreement shall be binding upon each party's successors and assigns, including without limitation, liquidating trusts, liquidating trustees, fiduciaries and representatives of the Welded estates.

IN WITNESS WHEREOF, the Parties have executed this Agreement on this 18<sup>th</sup> day of June, 2020.

**Guarantor**

By: \_\_\_\_\_  
Name: Clifton S. Rankin  
Title: Deputy General Counsel, Bechtel Corporation

**Company**

By:  \_\_\_\_\_  
Name: Frank Pometti  
Title: Chief Restructuring Officer, Welded Construction, L.P.



**EXHIBIT A**

**INDEMNITY AGREEMENT**

**THIS INDEMNITY AGREEMENT** (“Agreement”) is entered into this 18th day of June, 2020, by Bechtel Global Corporation (“Bechtel” or “Indemnitor”) and Welded Construction, L.P., on behalf of itself, its estate in the Bankruptcy Proceeding (as defined below), and including any successor thereto under the Plan (as defined below) as an estate representative (“Welded”) (together, the “Parties”).

**WHEREAS**, Welded and its wholly-owned subsidiary Welded Construction Michigan, LLC (collectively, the “Debtors”) are debtors in a Chapter 11 proceeding (“Bankruptcy Proceeding”) pending in the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”);

**WHEREAS**, the Central States, Southeast and Southwest Areas Pension Fund (“Fund”) on February 26, 2019, filed Claim #534 (“Claim”) in the Bankruptcy Proceeding in the amount of \$38,813,994.99 related to an alleged complete withdrawal from the Fund under ERISA § 4203(a);

**WHEREAS**, on April 24, 2019, the Fund assessed withdrawal liability against Bechtel in the same amount related to the same alleged complete withdrawal (“Demand”);

**WHEREAS**, the Fund asserts that the Parties were members of the same controlled group of corporations as defined in ERISA § 4001(b) during the relevant time related to the Claim and Demand and thus are jointly and severally liable in the event there is liability;

**WHEREAS**, the Parties agree that substantially the same set of operative facts, as well as most of the defenses and/or counterclaims apply to both Bechtel and Welded;

**WHEREAS**, Bechtel initiated arbitration against the Fund with the American Arbitration Association, Case No. 01-20-0000-0757, on January 8, 2020 (“Bechtel Arbitration”);

**WHEREAS**, Welded initiated arbitration against the Fund with the American Arbitration Association, Case No. 01-20-0000-1812, on January 16, 2020 (“Welded Arbitration”);

**WHEREAS**, Welded has filed the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC*, dated as of May 4, 2020, which is in form and substance acceptable to the Debtors and the Official Committee of Unsecured Creditors (the “Committee”), and includes a settlement agreement by and among the Debtors, the Committee, Bechtel, certain other Bechtel entities, McCaig GP, and McCaig LP that is acceptable to Bechtel and Welded (the “Plan”);<sup>1</sup>

**AND WHEREAS**, the Parties agree that this Agreement benefits the estate and its creditors in the Bankruptcy Proceeding and increases judicial efficiency;

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Plan.

**NOW, THEREFORE**, for and in consideration of the promises and agreements hereinafter set forth, the Parties agree as follows:

1. **Indemnity and Duty to Defend.** From the date of this Agreement, Bechtel hereby indemnifies each of the Debtors and each of their respective successors, assigns and subsidiaries, including any plan trustees, liquidating trusts, liquidating trustees, plan administrators, or liquidating agents of the Debtors' estates under any plan of reorganization, and each of their respective officers and directors (collectively "Welded Indemnitees") for any amounts that the Welded Indemnitees owe to the Fund as a result of a final award to the Fund in the Bechtel Arbitration or the Welded Arbitration or otherwise in any related action, proceeding or appeal (whether in the Bechtel Arbitration, the Welded Arbitration, or in another court or adjudicatory/appellate body of competent jurisdiction (including but not limited to withdrawal liability, interim payments, interest, liquidated damages, surcharges, and attorneys' fees or costs awarded to the Fund). Bechtel shall reimburse the Welded Indemnitees for any such amounts paid by the Welded Indemnitees within five (5) business days of such payment by Federal Reserve wire transfer as further specified in the Plan (for the avoidance of doubt, if the Welded Indemnitees lack sufficient funds to make payments subject to this paragraph and under the Plan, then Bechtel shall make such payments directly). From the date of this Agreement, Bechtel agrees to defend the Welded Indemnitees against any and all claims, demands, or actions of any kind whatsoever in law or in equity, which the Fund has brought, or may in the future bring, against the Welded Indemnitees in the Bechtel Arbitration or the Welded Arbitration, or any appeals thereof or collection actions related thereto, or in any related action, proceeding or appeal (whether in the Bechtel Arbitration, the Welded Arbitration, or in another court or adjudicatory/appellate body of competent jurisdiction).

2. **Estimation of the Claim Reserve.** Welded agrees that it will move the Bankruptcy Court to estimate the reserve for the Claim in the Bankruptcy Proceeding for distribution purposes at \$0.00, and Bechtel shall have the right to review and consent to any such pleading before it is filed with the Bankruptcy Court; provided, however, that this Agreement is not conditioned upon the outcome of such claim estimation proceeding.

3. **Claim Adjudication.** The Parties agree that, except with respect to the estimation of the Claim reserve for distribution purposes in the Bankruptcy Proceeding, the Claim shall be fully adjudicated in the Bechtel Arbitration and/or the Welded Arbitration, and Bechtel shall, on behalf of Welded, lead any such arbitration litigation (at Bechtel's sole expense) and any appeals thereof. Welded agrees that it shall not proceed with the Welded Arbitration without the prior written consent of Bechtel.

4. **Authority to Settle.** Bechtel shall have the right in its absolute and sole discretion to control and direct any settlement negotiations regarding the Claim and/or regarding the Welded Arbitration.

5. **Cooperation.** The Parties agree to cooperate, in a commercially reasonable manner, in any (i) proceeding or contested matter in the Bankruptcy Court to estimate the Claim or determine whether a reserve should be established for it (the "Reserve Proceeding"), and (ii) in the

Bechtel Arbitration and/or in the Welded Arbitration. Such cooperation shall include, but not be limited to responding to discovery requests and making available pertinent witnesses to assist with fact investigation, depositions, and/or hearing testimony. Bechtel agrees to reimburse the Welded Indemnitees for reasonable costs and expenses incurred by the Welded Indemnitees for work Bechtel requests pursuant to this Paragraph 5 in connection with the Bechtel Arbitration and/or the Welded Arbitration; *provided, however*, that Bechtel shall not be obligated to reimburse the Welded Indemnitees for any costs and expenses related to (i) the Reserve Proceeding or (ii) the first \$200,000 of reasonable fees and expenses incurred by Welded from and after the date of this Agreement for work Bechtel requests in connection with the Bechtel Arbitration and/or the Welded Arbitration.

6. **Representation of Financial Capability.** Bechtel represents and warrants that it is a wholly owned primary operating subsidiary of Bechtel Corporation and that it is appropriately capitalized to undertake the obligations herein. By the date of this Agreement, Bechtel Corporation shall provide Welded (with a copy to the Committee) a secretary's certificate confirming this representation.

7. **Counterparts and Originals.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute and be one and the same instrument. Copies of this executed Agreement shall have the same effect as an original.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of Delaware.

9. **Jurisdiction.** The Parties irrevocably and unconditionally submit to the jurisdiction of the Bankruptcy Court solely with respect to any and all disputes regarding the effect, scope, or interpretation of this Agreement.

10. **Successors and Assigns.** This Agreement shall be binding upon each Party's successors and assigns, including without limitation, liquidating trusts, liquidating trustees, fiduciaries and representatives of the Debtors' estates. This Agreement may only be transferred consistent with the terms of the Plan.

*[Signature page follows]*

IN WITNESS WHEREOF, the Indemnitor has executed this Agreement this 18th day of June, 2020.

**Bechtel**

By: 

Name: Clifton S. Rankin

Title: Deputy General Counsel, Bechtel Global Corporation

**Welded**

By: \_\_\_\_\_

Name: Frank Pometti

Title: Chief Restructuring Officer, Welded Construction, L.P.

IN WITNESS WHEREOF, the Indemnitor has executed this Agreement this 18th day of June, 2020.


**Bechtel**

By: \_\_\_\_\_

Name: Clifton S. Rankin

Title: Deputy General Counsel, Bechtel Global Corporation

**Welded**

By:  \_\_\_\_\_

Name: Frank Pometti

Title: Chief Restructuring Officer, Welded Construction, L.P.