

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

In re:

WELDED CONSTRUCTION, L.P., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-12378 (KG)

(Jointly Administered)

**Objection Deadline: December 3, 2018 at 4:00 p.m. (ET)**

**Hearing Date: December 20, 2018 at 2:00 p.m. (ET)**

**APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR  
AN ORDER UNDER BANKRUPTCY CODE SECTIONS 328 AND 1103, BANKRUPTCY  
RULE 2014, AND LOCAL RULE 2014-1 APPROVING THE EMPLOYMENT AND  
RETENTION OF TENE0 CAPITAL LLC AS INVESTMENT BANKER AND  
FINANCIAL ADVISOR *NUNC PRO TUNC* TO OCTOBER 30, 2018**

The Official Committee of Unsecured Creditors (the “Committee”) appointed in the chapter 11 bankruptcy cases (the “Chapter 11 Cases”) of the above-captioned debtors and debtors in possession (the “Debtors”) hereby files this application (the “Application”) for an order pursuant to sections 328(a) and 1103 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2014 of the Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court District of Delaware (the “Local Rules”) authorizing the employment and retention of Teneo Capital LLC (“Teneo”) as investment banker and financial advisor to the Committee *nunc pro tunc* to October 30, 2018 (the “Retention Date”). In support of the Application, the Committee relies upon the Declaration of Christopher K. Wu (the “Wu Declaration”) attached hereto as **Exhibit A** and incorporated by reference, and respectfully states as follows:

<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.



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### **JURISDICTION AND VENUE**

1. Pursuant to 28 U.S.C. §§ 157 and 1334, this Court has jurisdiction to consider and grant the relief requested herein. A proceeding to consider and grant such relief is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 328(a) and 1103(a) of the Bankruptcy Code. Relief is also proper pursuant to Bankruptcy Rule 2014 and Local Rule 2014-1. Compensation will be in accordance with sections 330 and 331 of the Bankruptcy Code.

2. Pursuant to Local Rule 9013-1(f), the Committee consents to the entry of a final judgment or order with respect to the Application if it is determined that the United States Bankruptcy Court for the District of Delaware (the “Court”), absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

### **BACKGROUND**

3. On October 22, 2018 (the “Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors continue to manage and operate their businesses and property as debtors in possession. No trustee or examiner has been appointed in these cases.

4. On October 30, 2018, the Office of United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed the Committee pursuant to section 1102(a)(1) of the Bankruptcy Code. The Committee is currently comprised of the following seven (7) members: (i) Ohio Machinery Co.; (ii) Cleveland Brothers Equipment Co., Inc.; (iii) United Piping, Inc.; (iv) PipeLine Machinery International, LP; (v) Earth Pipeline Services, Inc.; (vi) IUOE and Pipe Line Employers Health & Welfare Fund; and (vii) Schmid Pipeline. *See* Docket No. 128.

5. Subsequent to its formation, on October 30, 2018, the Committee selected Teneo as its proposed financial advisor and investment banker in these Chapter 11 Cases. By separate application, the Committee is seeking to employ and retain Blank Rome LLP as its counsel.

**RELIEF REQUESTED**

6. By this Application, the Committee respectfully requests the entry of an order, substantially in the form attached hereto, authorizing and approving the employment of Teneo as its investment banker and financial advisor, effective as of October 30, 2018.

7. Bankruptcy Code section 328(a) empowers a committee appointed under Bankruptcy Code section 1102, with the Court's approval, to employ financial advisors under Bankruptcy Code section 1103 on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis, to perform services for such committee.

8. Under Bankruptcy Code section 1103(b), a financial advisor employed to represent a committee may not, while employed by such committee, represent any other entity having an adverse interest in connection with the case. To the best of the Committee's knowledge and subject to the Wu Declaration submitted herewith, Teneo has informed the Committee that it represents no other entity in connection with this case and does not hold or represent any interest adverse to the Debtors with respect to the matters upon which it is to be employed.

9. The Committee has selected Teneo because of Teneo's extensive experience working with financially troubled entities in complex financial reorganization, both in chapter 11 cases and in out-of-court restructuring situations. In particular, the Committee has been advised that Teneo and its employees have served, or are serving, as financial advisors and investment bankers to numerous official committees and debtors- in-possession in bankruptcy proceedings.

10. The Committee seeks to retain Teneo to provide financial advisory services including, but not limited to, the following:

- a. Review and analyze the Company's business, operations, assets, financial condition, business plan, strategy, and operating forecasts;
- b. Advise and attend meetings of the Committee as well as meetings with the Company or other third parties as appropriate in connection with the matters set forth herein;
- c. Advise and assist the Committee in evaluating the financial aspects of any potential DIP loans or other financing by the Company;
- d. Review any valuation of the Company or its assets;
- e. Review and analyze any proposed capital structure for the Company;
- f. Analyze any proposed financing(s);
- g. Assist the Committee in developing, evaluating, structuring and negotiating the terms and conditions of a restructuring, plan of reorganization, or sale transaction;
- h. Analyze any merger, divestiture, joint-venture, or investment transaction, including the proposed structure and form thereof;
- i. Analyze any new debt or equity capital (including advice on the nature and terms of new securities);
- j. Assist the Committee or participate in negotiations with the Company and other creditor groups; and
- k. Provide the Committee with other general restructuring advice as Teneo and the Committee and its counsel deem appropriate.

11. Subject to the Court's approval and pursuant to Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, and the Local Rules, Teneo's request for compensation for professional services rendered for the Committee shall be in accordance with the engagement letter by and between the Committee and Teneo attached hereto as **Exhibit B**, which provides, *inter alia*, as follows:

a) Compensation:

- i. Monthly Fees. Teneo shall be paid hourly fees (the “Monthly Retainer”) on a monthly basis, payable in accordance with any applicable orders of the Bankruptcy Court; provided, however, that the Monthly Retainer for each of the first two months of the term of Teneo’s engagement shall equal \$70 thousand and for each of the third and fourth month of the term of Teneo’s engagement shall equal \$50 thousand; and provided further however, that, with respect to any period subsequent to the fourth month of the term of Teneo’s engagement, the Monthly Retainer payable to Teneo in respect of any calendar month in such period shall not exceed, without approval from the Committee, the amount that is the lesser of \$35 thousand and the aggregate hourly fees billed by Teneo in respect of such calendar month; and provided still further however, that, with respect to the immediately preceding proviso, any amount of such monthly fees that (i) could reasonably be expected to exceed \$35 thousand in any particular month shall be subject to good faith negotiation between the Committee and Teneo to agree a mutually acceptable fee for such month and (ii) is in excess of \$35 thousand in any particular month, notwithstanding anything else in this Section 3(a)(i), shall accrue and be subsequently paid to Teneo.
- ii. Teneo’s standard hourly fee rates are set forth below:
 

(1) Senior Managing Directors -	\$925-\$850
(2) Managing Directors -	\$850-\$725
(3) Directors and equivalents -	\$725-\$625
(4) Associates and Analysts -	\$625-\$425
(5) Administrative Staff -	\$325-\$175
- iii. Completion Fee. The Committee, in its sole discretion, but in consultation with Teneo, will determine a discretionary fee of \$500,000 payable to Teneo upon the confirmation of a plan of reorganization/liquidation or other outcome acceptable to the Committee; provided, however, that such fee shall be subject to Bankruptcy Court approval under a reasonableness standard.

b) The parties acknowledge that a commitment of professional time and effort will be required by Teneo and its professionals hereunder, and that such commitment may foreclose other opportunities for Teneo. Moreover, the actual time and commitment required by the engagement may vary substantially from week-to-week or month-to-month, creating “peak load” issues for Teneo.

12. In light of this proposed fee arrangement, Teneo also is requesting that it be permitted to record its time in one-hour increments, without the need to assign task codes to each recorded time entry. Because Teneo does not ordinarily maintain contemporaneous time records in tenth hour

(.10) increments, pursuant to Local Rule 2016-2(h), Teneo should be excused from compliance with such requirements and instead should be required to maintain time records in one-hour (1.0) increments, not decimal hours, setting forth, in a summary format, a description of the services rendered by each professional and the amount of time spent on each date by each such individual in rendering services on behalf of the Debtors.

13. Teneo has also advised the Committee that Teneo will request reimbursement from the Debtors' estates for reasonably incurred, out-of-pocket expenses associated with an assignment, including, but not limited to, costs of reproduction, typing, database research charges, any applicable state sales or excise taxes, and other direct expenses. Except as follows, all expenses will be billed at actual cost, exclusive of amortization of the cost of any investment, equipment or capital outlay: (i) internal charges for outgoing out-of-town facsimile transmissions will be billed at \$0.25 per page, and (ii) internal photocopy charges will be billed at \$.10 per page. Teneo will charge the cost of these expenses in a manner and at rates consistent with charges generally made to the firm's other clients.

14. As part of the Application, as well as the Engagement Letter, the Committee also requests that the Court approve certain indemnification provisions. The terms of the indemnification provisions were fully negotiated at arms-length and in good faith between the Committee and Teneo. The indemnification provisions are standard provisions and reflect the qualifications and limits on indemnification provisions that are customary in Delaware and other jurisdictions. The Committee respectfully submits that such indemnification provisions are reasonable and in the best interest of the Debtors and their estates and are consistent with the practice of courts in this district.

15. The Committee understands that any compensation and expenses paid to Teneo must be approved by this Court upon application consistent with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders of this Court respecting compensation of professionals.

16. Based on the foregoing, the Committee believes that the employment of Teneo is necessary, appropriate and in the best interests of the estate, enabling the Committee to carry out its fiduciary duties owed to creditors under the Bankruptcy Code.

**NOTICE**

17. Notice of this Application has been provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Debtors; (iii) counsel to the Debtors' postpetition lenders; and (iv) all parties requesting notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Committee submits that no other or further notice is necessary.

**WHEREFORE**, the Committee respectfully requests that this Court enter an Order, substantially in the form attached hereto as **Exhibit C**, (i) authorizing employment and retention of Teneo *nunc pro tunc* to October 30, 2018 as investment banker and financial advisor to the Committee; and (ii) for such other and further relief as the Court deems proper and just.

Dated: November 19, 2018

Respectfully submitted,

THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF WELDED CONSTRUCTION, L.P., ET AL.

Ohio Machinery Co., solely in its  
capacity as a Committee Chairperson

By: /s/ Walter Curtis Keal

Name: Walter Curtis Keal

Title: Credit Manager



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

In re:

WELDED CONSTRUCTION, L.P., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11

)  
) Case No. 18-12378 (KG)

)  
) (Jointly Administered)

)  
) **Objection Deadline: December 3, 2018 at 4:00 p.m. (ET)**  
) **Hearing Date: December 20, 2018 at 2:00 p.m. (ET)**  
)

**NOTICE OF APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS FOR AN ORDER UNDER BANKRUPTCY CODE SECTIONS 328 AND  
1103, BANKRUPTCY RULE 2014, AND LOCAL RULE 2014-1 APPROVING THE  
EMPLOYMENT AND RETENTION OF TENEO CAPITAL LLC AS INVESTMENT  
BANKER AND FINANCIAL ADVISOR *NUNC PRO TUNC* TO OCTOBER 30, 2018**

PLEASE TAKE NOTICE that on November 19, 2018, the Official Committee of Unsecured Creditors (the “Committee”) appointed in the chapter 11 bankruptcy cases of the above-captioned debtors and debtors-in-possession, filed the *Application of the Official Committee of Unsecured Creditors for an Order Under Bankruptcy Code Sections 328 and 1103, Bankruptcy Rule 2014, and Local Rule 2014-1 Approving the Employment and Retention of Teneo Capital LLC as Investment Banker and Financial Advisor Nunc Pro Tunc to October 30, 2018* (the “Application”). A copy of the Application is attached hereto.

PLEASE TAKE FURTHER NOTICE that any response or objection to the Application must be (i) filed in writing with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801, on or before **December 3, 2018 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”) and (ii) served on, so as to be received by, the undersigned proposed counsel to the Committee on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that a hearing with respect to the Application is scheduled to be held on **December 20, 2018 at 2:00 p.m. (prevailing Eastern Time)** before the Honorable Kevin Gross, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6<sup>th</sup> Floor, Courtroom #3, Wilmington, Delaware 19801.

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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.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND TO THE APPLICATION IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE APPLICATION WITHOUT FURTHER NOTICE OR OPPORTUNITY FOR A HEARING.

Dated: November 19, 2018  
Wilmington, Delaware

**BLANK ROME LLP**

/s/ Jose F. Bibiloni

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Jose F. Bibiloni (DE No. 6261)  
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*Proposed Counsel to the Official Committee  
of Unsecured Creditors of Welded  
Construction, L.P., et al.*

**EXHIBIT A**

Declaration of Christopher K. Wu

**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)
	)	

**DECLARATION OF CHRISTOPHER K. WU IN SUPPORT OF APPLICATION OF THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR AN ORDER UNDER  
BANKRUPTCY CODE SECTIONS 328 AND 1103, BANKRUPTCY RULE 2014, AND  
LOCAL RULE 2014-1 APPROVING THE EMPLOYMENT AND RETENTION OF  
TENEO CAPITAL LLC AS INVESTMENT BANKER AND  
FINANCIAL ADVISOR *NUNC PRO TUNC* TO OCTOBER 30, 2018**

**I, CHRISTOPHER K. WU**, declare under the penalty of perjury:

1. I am President of Teneo Restructuring and Senior Managing Director at Teneo Capital LLC (“Teneo”), a professional services firm engaged in the business of providing financial advisory and related professional investment banking services, with offices located at 280 Park Avenue, 4th Floor, New York, New York, 10022. I submit this declaration on behalf of Teneo pursuant to Bankruptcy Rule 2014 and Local Rule 2014-1 in connection with the application (the “Application”)<sup>2</sup> by the Official Committee of Unsecured Creditors appointed in the above-captioned cases (the “Committee”) for the entry of an order authorizing the retention of Teneo as financial advisor and investment banker to the Committee. Unless otherwise stated, I have personal knowledge of the facts hereinafter set forth.

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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> Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Application.

### **Teneo's Experience**

2. In my role as a President of Teneo Restructuring and Senior Managing Director at Teneo and through prior experience, I have advised numerous clients in a variety of different types of distressed transactions. Prior to my employment with Teneo, I was involved in the following restructuring transactions: Abengoa Bioenergy USA, Breitburn Energy, Zohar CDO 2003-1, DirectBuy Inc., Green Field Energy Services, Physiotherapy Holdings, Monitor Group, Northern Berkshire Health, Marco Polo Seatrade, Metro Fuel Inc, Biofuel Energy Inc, American Bancorp, RG Steel, MSR Resorts Golf, General Growth Properties Inc., Innkeepers USA Trust, Holley Performance Inc., FX Luxury Las Vegas I, Media News Inc., VeraSun Energy Inc, American Community Newspapers Inc., Ascendia Brands, Inc., Elite Model Management, Metabolife International among numerous other restructuring cases.

3. Teneo's professionals have served as financial advisors in numerous chapter 11 cases, and have advised debtors and creditors' committees and other parties in interest in numerous restructuring transactions, including some of the largest and most complicated cases. Some of the more prominent recent creditor committee representations of Teneo's principals were in the following chapter 11 cases: *In re CST Industries Holdings Inc.*, No. 17-11292 (BLS) (Bankr. D. Del.); *In re CJ Holding Co.*, No. 16-33590 (DRJ) (Bankr. D. S.D. Texas); *In re Linc USA GP, Inc.*, No. 16-32689 (DRJ) (Bankr. S.D. Tex.); *In re Natrol Inc.*, No 14-11446 (BLS) (Bankr. D. Del); *In re First Mariner Bancshares*, No. 14-11952 (DER) (Bankr. D. Maryland); *In re North Texas Bancshares*, No. 13-12699 (KG) (Bankr. D. Del.); *In re MSD Performance Inc.*, No.13-12286 (PJW) (Bankr. D. Del.); *In re Rogers Bancshares*, No. 13-13838 (JGM) (Bankr. D. Arkansas); *In re Velo Holdings Inc.*, No. 12-11384 (MG) (Bankr. S.D.N.Y.); *In re PJ Finance Company LLC*, No. 11-10688 (BLS) (Bankr. D. Del.), *In re Sun Times Media Group*, No. 09-11092 (CSS) (Bankr. D. Del.);

*In re White Energy Inc.*, No. 09-11601 (CSS) (Bankr. D. Del); and *In re Linens Holdings Co.*, No. 08-10832 (CSS) (Bankr. D. Del.).

### **Teneo's Compensation**

4. Teneo has been asked to serve as financial advisor and investment banker to the Committee appointed by the United States Trustee for the District of Delaware (the "U.S. Trustee") in the above-captioned chapter 11 cases filed by Welded Construction, L.P. and its affiliated debtor and debtor-in-possession (together, the "Debtors"). Teneo proposes to render services for the Committee in accordance with the engagement letter by and between the Committee and Teneo attached to the Application as **Exhibit B**, which provides, *inter alia*, as follows:

a) **Compensation:**

i. **Monthly Fees.** Teneo shall be paid hourly fees (the "Monthly Retainer") on a monthly basis, payable in accordance with any applicable orders of the Bankruptcy Court; provided, however, that the Monthly Retainer for each of the first two months of the term of Teneo's engagement shall equal \$70 thousand and for each of the third and fourth month of the term of Teneo's engagement shall equal \$50 thousand; and provided further however, that, with respect to any period subsequent to the fourth month of the term of Teneo's engagement, the Monthly Retainer payable to Teneo in respect of any calendar month in such period shall not exceed, without approval from the Committee, the amount that is the lesser of \$35 thousand and the aggregate hourly fees billed by Teneo in respect of such calendar month; and provided still further however, that, with respect to the immediately preceding proviso, any amount of such monthly fees that (i) could reasonably be expected to exceed \$35 thousand in any particular month shall be subject to good faith negotiation between the Committee and Teneo to agree a mutually acceptable fee for such month and (ii) is in excess of \$35 thousand in any particular month, notwithstanding anything else in this Section 3(a)(i), shall accrue and be subsequently paid to Teneo.

ii. Teneo's standard hourly fee rates are set forth below:

(1) Senior Managing Directors -	\$925-\$850
(2) Managing Directors -	\$850-\$725
(3) Directors and equivalents -	\$725-\$625
(4) Associates and Analysts -	\$625-\$425
(5) Administrative Staff -	\$325-\$175

- iii. The Committee, in its sole discretion, but in consultation with Teneo, will determine a discretionary fee of \$500,000 payable to Teneo upon the confirmation of a plan of reorganization/liquidation or other outcome acceptable to the Committee; provided, however, that such fee shall be subject to Bankruptcy Court approval under a reasonableness standard.

5. Subject to this Court's approval, and in consideration of the proposed arrangement for Teneo's services in these cases, the Committee requests that Teneo be permitted to record its time in one-hour increments, without the need to categorize time entries by task codes. In the normal course of Teneo's business, Teneo does not keep time in tenth of an hour increments and with task codes. Therefore, under the present circumstances and pursuant to Local Rule 2016-2(h), I submit that it would be appropriate for Teneo to record its time in one-hour increments, without the use of task codes.

6. Teneo's policy is to request reimbursement of its actual and necessary out-of-pocket expenses incurred in connection with providing its professional services. Among other things, Teneo charges for reasonable documented for reasonably incurred, out-of-pocket expenses associated with an assignment, including, but not limited to, costs of reproduction, typing, database research charges, any applicable state sales or excise taxes, other direct expenses. Except as follows, all expenses will be billed at actual cost, exclusive of amortization of the cost of any investment, equipment or capital outlay: (i) internal charges for outgoing out-of-town facsimile transmissions will be billed at \$0.25 per page, and (ii) internal photocopy charges will be billed at \$.10 per page. Teneo has assured the Committee that Teneo will charge the Committee for these expenses at rates consistent with charges made to other Teneo clients, and subject to the Local Rules, orders of this Court and the guidelines of the U.S. Trustee.

7. The parties acknowledge that a substantial professional commitment of time and effort will be required by Teneo and its professionals hereunder, and that such commitment may foreclose other opportunities for Teneo. Moreover, the actual time and commitment required by the

engagement may vary substantially from week-to-week or month-to-month, creating ‘peak load’ issues for Teneo.

8. Except as described below, neither Teneo, any member of Teneo, nor any professional associated with or employed by Teneo has received a promise as to payment or compensation in connection with the Debtors’ chapter 11 cases. Teneo does not have any agreement with any other entity to share with any such entity any compensation received by Teneo.

**Teneo’s Connections in these Cases**

9. In connection with the Committee’s proposed retention of Teneo, Teneo conducted a review of its professional contacts with the Debtors, their affiliates and other interested parties identified on a list (the “Interested Party List”) provided to Teneo by the Committee’s proposed counsel in these Chapter 11 Cases.

10. Attached hereto as **Schedule 1** is the Interested Parties List that was vetted against Teneo’s relationship database, which is a database containing names of individuals and entities that are present or former clients of Teneo. These results were then reviewed to identify any relationship that would need to be disclosed in accordance with Bankruptcy Rule 2014.

11. To the best of my knowledge after diligent inquiry, neither Teneo, any member of Teneo, nor any professional with or employed by Teneo, is related to the Debtors herein, their creditors, any other party-in-interest herein, their respective attorneys or accountants, the U.S. Trustee, or any person employed in the office of the United States Trustee. Also, Teneo and its affiliates have active and diversified investment banking and advisory services practices, and therefore may at various times be engaged in unrelated transactions with banks and insurance companies that are appearing in these cases.



12. Teneo has been involved in a number of unrelated cases with various professionals involved in this case, both in adverse and non-adverse roles.

13. Moreover, Teneo has a well-known investment banking practice which encompasses the representation of many investors, financial institutions and other persons or entities, some of which may become creditors or parties-in-interest, including, without limitation, potential acquirers of the Debtors' assets in these chapter 11 cases. Furthermore, as part of its services, Teneo is involved in cases, proceedings, and transactions involving numerous attorneys, accountants, and financial advisors, some of which may represent the Debtors, creditors, or parties-in-interest, or themselves be creditors or parties-in-interest in these chapter 11 cases. Teneo has not and will not represent any of these creditors, investors, potential acquirers, parties-in-interest, attorneys, financial advisors, accountants, or any other entity in connection with these chapter 11 cases.

14. Teneo's present or former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates (a) may have had relationships with parties in interest in these chapter 11 cases of which Teneo was not informed or (b) may have developed relationships with parties in interest in these chapter 11 cases, subsequent to the performance of Teneo's services, of which Teneo is unaware.

15. Teneo will file appropriate supplemental disclosure(s) with the Court to the extent that additional information concerning any connections is developed.

16. Notwithstanding the above, to the best of my knowledge and based upon Teneo's review of its professional contacts with the Debtors, their affiliates and other interested parties identified on the Interested Party List, I believe that Teneo is a "disinterested person" as that term is defined in 101(14) of the Bankruptcy Code. To the best of my knowledge, Teneo (a) is not a creditor, equity security holder, or insider of the Debtors; (b) is not and was not, within two (2) years before

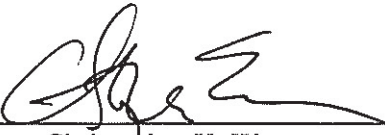
the date of the filing of the Debtors' chapter 11 petition, a director, officer, or employee of the Debtors; and (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any reason, with respect to the matters in which Teneo is proposed to be employed.

17. Based upon the foregoing, I declare under the penalty of perjury that the foregoing is true and correct.

*[Signature follows]*

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: November 19, 2018

/s/   
Christopher K. Wu

**Schedule 1**  
**Case Parties**

**Debtors:**

- Welded Construction, L.P.
- Welded Construction Michigan, LLC

**Current & Former Officers & Directors**

- Joseph M. St. Julian
- Jack Futcher
- John Nicolson
- Stephen D. Hawkins.
- Jeff McCaig
- Rich Wall
- Matt Lutz
- Dean McDowell
- Ronald P. Gratton
- Glen P. Brock
- Emad Eldin Mohamed Khedr

**General Partners/Limited Partners:**

- Ohio Welded Company LLC
- McCaig Welded GP, LLC
- Bechtel Oil, Gas and Chemicals, Inc.
- McCaig US Holdings, Inc.

**Bankruptcy Professionals:**

- Young, Conaway, Stargatt & Taylor, LLP
- Gibson Dunn & Crutcher LLP
- Zolfo Cooper, LLC

**Cash Management Banks:**

- Huntington National Bank
- JPMorgan Chase
- M&T Bank
- Global Cash Card

**UCC Lien Claimants**

- Caterpillar Financial Services
- VAR Resources, LLC
- BNP Paribas
- Huntington National Bank

**Landlords:**

- Rexroth Equities, LP
- Board of Park Commissioners of the Friendship Park District
- 6twelve Properties, L.P. (d/b/a Eastridge Commerce Park)
- Ruth A. Miley
- Falcon Properties
- Matt Canestrone Contracting, Inc.
- Atlantis Self Storage, Inc.
- Morgantown, L.P.
- Schuylkill Economic Development Corporation
- Fox's Inc.
- Mt. Joy Holding Co.
- CFV Group LLC

**Insurance:**

- Navigators Insurance Company
- Zurich American Insurance Company
- Travelers Casualty and Surety Company of America
- Indian Harbor Insurance Company
- The Charter Oak Fire Insurance Company
- Westchester Fire Insurance Company
- Gemini Insurance Company
- Great American Assurance Company
- The Ohio Casualty Insurance Company
- Liberty Mutual Insurance Company
- McGriff, Seibels & Williams, Inc.
- Prime Rate Premium Finance Corporation, Inc.

**Surety:**

- Berkshire Hathaway
- Travelers Casualty and Surety Company of America
- Chubb (Federal Insurance Company)
- AIG

**Major Contract Counterparty:**

- TransCanada
- Columbia Gas Transmission, LLC
- Transcontinental Gas Pipe Line Company, LLC
- Sunoco Partners Marketing & Terminals, LP
- Sunoco Pipeline, LP
- Energy Transfer Partners
- NiSource Corporate Services Company
- Consumers Energy Company
- Northcoast Gas Transmission LLC
- The Williams Companies, Inc.

**Taxing Authorities:**

- Michigan Department of Treasury
- Ohio Department of Taxation
- Pennsylvania Department of Revenue
- West Virginia State Tax Department
- City of Perrysburg
- Maryland Department of Assessments & Taxation
- Wood County Treasurer
- Alabama Office of State Treasurer
- Alabama Licensing Board for General Contractors
- Arizona Department of Revenue, Unclaimed Property Section
- Arizona Registrar of Contractors
- Arkansas Licensing Board
- Arkansas Secretary of State
- Colorado Secretary of State
- State of Delaware, Division of Corporations
- Florida Department of Business and Professional Regulation
- Florida Department of State, Division of Corporations
- Georgia Secretary of State, Corporations Division
- Illinois Secretary of State
- Maine Department of the Secretary of State
- Comptroller of Maryland

- Michigan Department of Licensing and Regulatory Affairs
- Nevada Secretary of State
- Nevada State Contractors Board
- North Dakota Secretary of State
- Oregon Secretary of State
- South Carolina Department of Labor, Licensing and Regulation
- Texas Comptroller
- Utah Division of Corporations and Commercial Code
- Utah Division of Occupational and Professional Licensing
- Commonwealth of Virginia State Corporation Commission
- State of West Virginia, Division of Labor

**Top 30 Unsecured Creditors:**

- Travelers Casualty and Surety Company of America
- Chubb (Federal Insurance Company)
- AIG
- Cleveland Brothers Equipment Company
- Clearwater Construction, Inc.
- Pipeline Machinery
- Ohio CAT
- Southeast Directional Drilling
- Cross Country Pipeline Supply
- United Piping Inc.
- Bedrock Environmental Services
- Outlaw Padding Company
- CRC-Evans Pipeline Intl. Inc.
- Laney Directional Drilling
- Pipeline Supply & Service Holdings
- Bechtel Corporation
- United Rentals North America
- Maxx HDD, LLC
- US Crossings Unlimited, LLC
- Azul Estrella Services of Mississippi
- Sunbelt Equipment Marketing, I
- LGS Restoration, LLC
- Gwinnup's Restoration and Environmental
- Earth Pipeline Services, Inc.

- I.U.O.E. Benefit Fund of Eastern PA & DE
- IUOE & Pipe Line Employers H&W Fund
- Laborers-Employers Benefit Plan Collection Trust
- Schmid Pipeline Construction, Inc.
- Mears Group, Inc.
- Michigan CAT
- Trans Energy Pipeline Services, LLC
- Central Pension Fund

#### **Utilities**

- AEP Ohio
- Braido RV Park
- CenturyLink
- Connectwise, Inc.
- Country Waste of Pennsylvania, LLC
- DMC Technology
- Glen Dale Municipal Utilities
- Lebanon Farms Disposal (Waste Industries)
- Suddenlink
- Comcast
- West Penn Power
- PPL Electric Utilities
- PenTeleData
- Met-Ed
- UGI Utilities
- Toledo Edison
- City of Perrysburg
- Columbia Gas of Ohio
- Buckeye Telesystem
- Verizon Wireless
- Intermedia.net
- Republic Services
- Waste Management

#### **Delaware Bankruptcy Judges**

- Chief Judge Brendan L. Shannon
- Judge Kevin J. Carey
- Judge Kevin Gross
- Judge Christopher S. Sontchi
- Judge Laurie Selber Silverstein
- Judge Mary F. Walrath

#### **Office of the United States Trustee, Region 3, Wilmington Office**

- T. Patrick Tinker
- Lauren Attix
- David Buchbinder
- Linda Casey
- Holly Dice
- Shakima L. Dortch
- Timothy J. Fox, Jr.
- Diane Giordano
- Christine Green
- Benjamin Hackman
- Jeffrey Heck
- Brya Keilson
- Mark Kenney
- Jane Leamy
- Hannah McCollum
- James R. O'Malley
- Michael Panacio
- Linda Richendorfer
- Juliet Sarkessian
- Richard Schepacarter
- Edith A. Serrano
- Karen Starr
- Ramona Vinson
- Jaclyn Weissgerber
- Michael West
- Dion Wynn

**EXHIBIT B**

Engagement Letter



## ENGAGEMENT LETTER

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- , 2018

### **Privileged and Confidential**

To: The Official Committee of Unsecured Creditors of [Welded Construction], *et al*

Dear Committee Members:

This letter agreement confirms the understanding and agreement (the “**Agreement**”) by and between Teneo Capital LLC, a Delaware limited liability company (“**Teneo**”), and the Official Committee of Unsecured Creditors (the “**Committee**”) of Welded Construction, L.P., *et al*, a [Delaware] [partnership], and its controlled subsidiaries (collectively with any entity formed or used for the purpose set forth herein, the “**Company**”). Teneo acknowledges and agrees that this Agreement and the Indemnification Agreement annexed hereto as Schedule 1 are both subject to Bankruptcy Court (defined below) approval and the terms of the order of the Bankruptcy Court approving Teneo’s retention.

- 1) **Engagement.** Teneo is being retained to provide financial advisory and investment banking services for the Committee in connection with the Company’s restructuring and Chapter 11 cases (the “**Chapter 11 Cases**”), before the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”). Upon retention, Teneo will work at the direction of the Committee to:
  - a) Review and analyze the Company’s business, operations, assets, financial condition, business plan, strategy, and operating forecasts;
  - b) Advise and attend meetings of the Committee as well as meetings with the Company or other third parties as appropriate in connection with the matters set forth herein;
  - c) Advise and assist the Committee in evaluating the financial aspects of any potential DIP loans or other financing by the Company;
  - d) Review any valuation of the Company or its assets;
  - e) Review and analyze any proposed capital structure for the Company;
  - f) Analyze any proposed financing(s);
  - g) Assist the Committee in developing, evaluating, structuring and negotiating the terms and conditions of a restructuring, plan of reorganization, or sale transaction;
  - h) Analyze any merger, divestiture, joint-venture, or investment transaction, including the



proposed structure and form thereof;

- i) Analyze any new debt or equity capital (including advice on the nature and terms of new securities);
- j) Assist the Committee or participate in negotiations with the Company and other creditor groups; and
- k) Provide the Committee with other general restructuring advice as Teneo and the Committee and its counsel deem appropriate.

The services and compensation arrangements set forth herein do not encompass any other investment banking or financial advisory services not set forth in this paragraph 1. Notwithstanding anything contained in this Agreement to the contrary, Teneo shall have no responsibility for designing or implementing any initiatives to improve the Company's operations, profitability, cash management or liquidity. Teneo makes no representations or warranties about the Company's ability to (i) successfully improve its operations, (ii) maintain or secure sufficient liquidity to operate its business, or (iii) successfully complete a restructuring, sale transaction or plan of reorganization.

- 2) **Term of Agreement.** This Agreement shall continue unless either party gives 30 days prior written notice of termination to the other party. The provisions of Paragraphs 2, 3, 5 (including, without limitation, Schedule I), 6, 7, 8, 9, 11, 12 and 13 shall survive the termination of this Agreement and shall remain in effect.

### 3) **Fees and Expenses.**

#### a) **Compensation:**

- i. **Monthly Fees.** Teneo shall be paid hourly fees (the "***Monthly Retainer***") on a monthly basis, payable in accordance with any applicable orders of the Bankruptcy Court; provided, however, that the Monthly Retainer for each of the first two months of the term of Teneo's engagement shall equal \$ 70 thousand and for each of the third and fourth month of the term of Teneo's engagement shall equal \$ 50 thousand; and provided further however, that, with respect to any period subsequent to the fourth month of the term of Teneo's engagement, the Monthly Retainer payable to Teneo in respect of any calendar month in such period shall not exceed, without approval from the Committee, the amount that is the lesser of \$35 thousand and the aggregate hourly fees billed by Teneo in respect of such calendar month; and provided still further however, that, with respect to the immediately preceding proviso, any amount of such monthly fees that (i) could reasonably be expected to exceed \$35 thousand in any particular month shall be subject to good faith negotiation between the Committee and Teneo to agree a mutually acceptable fee for such month and (ii) is in excess of \$35 thousand in any particular month, notwithstanding anything else in this Section 3(a)(i), shall accrue and be subsequently paid to Teneo.

- ii. Teneo's standard hourly fee rates are set forth below:
  - (1) Senior Managing Directors - \$925-\$850
  - (2) Managing Directors - \$850-\$725
  - (3) Directors and equivalents - \$725-\$625
  - (4) Associates and Analysts - \$625-\$425
  - (5) Administrative Staff - \$325-\$175
  
- iii. Completion Fee. The Committee, in its sole discretion, but in consultation with Teneo, will determine a discretionary fee of \$500,000 payable to Teneo upon the confirmation of a plan of reorganization/liquidation or other outcome acceptable to the Committee; provided, however, that such fee shall be subject to Bankruptcy Court approval under a reasonableness standard.
  
- b) Expense Reimbursement: Teneo shall be entitled to monthly reimbursement of documented out-of-pocket expenses incurred in connection with the services to be provided under this Agreement. Out-of-pocket expenses shall include, but not be limited to, all documented travel expenses, meals, computer and database research charges, reasonable documented outside attorney fees (including, without limitation, engagement documentation and similar pleadings by outside counsel), messenger services and long-distance telephone calls incurred by Teneo in connection with the services to be provided to the Committee.
  
- c) No Third Party Fees: No fee payable to any third party, by the Company, the Committee or any other person or entity, shall reduce or otherwise affect any fee payable hereunder to Teneo.
  
- 4) Company Information. The Committee shall use all reasonable efforts to assist Teneo in obtaining from the Company all information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition and prospects of the Company that Teneo reasonably requests in connection with the services to be performed for the Committee hereunder. The Committee recognizes and confirms that in rendering services hereunder, Teneo will be using and relying on, and assuming the accuracy of, without any independent verification, data, material and other information (collectively, the "**Information**") furnished to Teneo by or on behalf of the Committee, the Company or other third parties (including their agents, counsel, employees and representatives). The Committee understands that Teneo will not be responsible for independently verifying the accuracy of the Information provided to Teneo and shall not be liable for inaccuracies in any such Information. Unless required by subpoena or other valid legal or regulatory process, and, where permissible, prior written notice is provided to you so that you may challenge such disclosure, Teneo will not disclose to any third party (other than Teneo's or the Committee's counsel or anyone who has executed a non-disclosure agreement with the Company) any portion of the Information

so provided by the Committee which constitutes confidential, proprietary or trade secret information except in furtherance of the Committee's engagement hereunder. Teneo will not use such confidential information for any purpose other than pursuant to Teneo's engagement hereunder.

- 5) **Indemnification.** The Company shall provide indemnification and other obligations set forth in Schedule I hereto, which is an integral part hereof and is hereby incorporated by reference. Further, in the event that an Indemnified Person (as defined in Schedule I) is requested or required to appear as a witness in any action brought by or on behalf of or against the Committee or which otherwise relates to this Agreement or the services rendered by Teneo hereunder, the Company shall reimburse Teneo and the Indemnified Person for all documented out-of-pocket reasonable expenses incurred by them in connection with such Indemnified Person's appearance and preparation therefor, including without limitation, the reasonable fees and disbursements of legal counsel.
  
- 6) **Bankruptcy Court Approval.** The Committee agrees that it will use its best efforts to retain Teneo, *nunc pro tunc* to October 30, 2018, as financial advisor and investment banker to the Committee on the terms and conditions set forth in this agreement (including Schedule I) under the provisions of and subject to the standard of review set forth in Section 328(a) of title 11 of the United States Code (the "***Bankruptcy Code***") and agrees that the arrangements hereunder are reasonable under the standards set forth in Section 328(a). Teneo shall be under no obligation to provide any services under this agreement unless Teneo's retention under the terms of this agreement is approved under section 328(a) of the Bankruptcy Code by final order of the Bankruptcy Court (the "***Retention Order***") and the Retention Order is acceptable to Teneo in its sole discretion. The retention application shall note that in so agreeing to seek Teneo's retention under Section 328(a) of the Bankruptcy Code, the Committee acknowledges that: (i) it believes that Teneo's general restructuring experience and expertise, its knowledge of the capital markets and its merger and acquisition capabilities will inure to the benefit of the Committee and the Company in pursuing any restructuring, that the value to the Committee and the Company of Teneo's services hereunder derives in substantial part from that expertise and experience and (ii) the various fees set forth herein have been agreed upon by the parties in anticipation that the commitment of professional time required of Teneo and its professionals hereunder over the life of the engagement may foreclose other opportunities for Teneo and that the actual time and commitment required of Teneo and its professionals to perform its services hereunder may vary substantially from week to week or month to month, creating "peak load" issues for the firm. Accordingly, in light of the foregoing, Committee acknowledges and agrees that the structure and amount of the fees is reasonable regardless of the number of hours to be expended by Teneo's professionals in the performance of the services to be provided hereunder.
  
- 7) **Limited Role; No Additional Services.** In performing its services pursuant to this Agreement, Teneo is not assuming any responsibility for the decision of the Company or any third party to pursue (or not to pursue) any business strategy or to effect (or not to effect) any restructuring, sale transaction or other transaction. Teneo has been retained under this agreement as an independent contractor to the Committee; nothing herein is intended to create or shall be construed as creating a fiduciary relationship between Teneo and the Committee or its members or any other person or entity. The Committee acknowledges

that Teneo is not the agent of and is not authorized to bind the Committee in any action or decision. The advice (oral or written) rendered by Teneo pursuant to this agreement is intended solely for the benefit and use of the Committee solely in its capacity as the Committee in considering the matters to which this agreement relates, and such advice may not be relied upon by any other person or entity (including its members or the Company), used for any other purpose or reproduced, disseminated, quoted or referred to at any time, in any manner for any purpose, nor shall any public references to Teneo be made by the Committee or the Company, without the prior consent of Teneo.

- 8) **No Commitment.** It is understood and agreed that nothing contained in this Agreement would constitute an express or implied commitment by Teneo or any of its respective affiliates to underwrite, place or purchase any securities in a financing or otherwise, which commitment shall only be set forth in a separate agreement relating to the financing, and this Agreement does not constitute any representation, warranty or agreement that any transaction will be available.
- 9) **Engagement & Reliance.** The Committee recognizes that Teneo has been retained only by the Committee and that the Committee's engagement of Teneo is not deemed to be on behalf of and is not intended to and does not confer rights upon the Company or any of its shareholders, partners or other owners, employees or representatives of the Company, or any individual members of the Committee. Unless otherwise expressly agreed, no one other than the Committee is authorized to rely upon the engagement of Teneo or any statements, advice, opinions or conduct by Teneo.
- 10) **Use of Affiliates.** In connection with the services to be provided hereunder, Teneo may employ the services of its affiliates, including but not limited to its broker-dealer subsidiary Teneo Securities LLC, and may share with any such entity any information concerning the Committee or Company; provided, however, that Teneo and such entities shall hold any non-public information confidential in accordance with their respective customary policies relating to non-public information. Any such entity so employed shall be entitled to all of the benefits afforded to Teneo hereunder and under the indemnification provisions hereof and shall be entitled to be reimbursed for its costs and expenses on the same basis as Teneo.

In addition, Teneo reserves the right to use consultants or other independent contractors if deemed necessary or advisable by Teneo. In the event of such use, Teneo will take commercially reasonable steps to obtain contractual provisions reasonably equivalent to the confidentiality and conflicts provisions in the preceding paragraph.

- 11) **Entire Agreement.** This Agreement represents the entire Agreement between the parties and may not be modified except in writing signed by both parties. This Agreement may be executed in counterparts, each of which shall constitute an original. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
- 12) **Publicity.** The Committee acknowledges and agrees that Teneo may, at its option and expense, place a customary "tombstone" announcement in such newspapers and periodicals as it may choose, describing its services in connection with any transaction.

- 13) **Governing Law.** This Agreement will be governed by, and construed in accordance with, the laws of the State of New York without regard to the provisions, policies or principals thereof relating to choice or conflicts of law. Each of the parties hereto agrees to submit any claim or dispute arising out of or related to this Agreement to the Bankruptcy Court in the Chapter 11 Cases. If the Bankruptcy Court declines to assert jurisdiction over such proceedings or if the reference is withdrawn to the United States District Court, then such proceedings shall be heard and determined in any New York state or federal court of competent jurisdiction sitting in the Manhattan, to whose jurisdiction each of the parties hereto hereby irrevocably submit. Nothing in this paragraph shall pertain to or affect the authority of a bankruptcy court having jurisdiction over the Company to consider and rule upon Teneo's applications for interim or final compensation pursuant to this Agreement. Each of the Company (on its own behalf and, to the extent permitted by applicable law, on behalf of its security holders and creditors) and the Committee waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to, arising out of or in connection with our engagement or Schedule I.
- 14) **Other Matters.** If this letter correctly sets forth our Agreement on the matters covered herein, please so indicate by signing and returning this letter. Upon execution by both parties, this letter will constitute a legally binding Agreement between the Committee and Teneo.

We trust the foregoing terms and provisions are agreeable to you, and request that you sign and return the enclosed copy of this Agreement to us at your earliest convenience.

Respectfully submitted,

TENEO CAPITAL LLC

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

Name: Christopher Wu

Title: Chief Officer

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF [WELDED  
CONSTRUCTION]. ET AL

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

- [ ], solely in its capacity as Chair of the Committee and not in its individual capacity

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

Name:

Title:



## INDEMNIFICATION

### Schedule I

In connection with our engagement to advise and assist the Official Committee of Unsecured Creditors of [Welded Construction]. *et al* (the “**Committee**”) with the matters set forth in the engagement letter of even date here with and attached hereto (the “**Engagement Letter**”), for good and valuable consideration, receipt of which is acknowledged, [Welded Construction] *et al* and its subsidiaries and affiliates that are debtors in the chapter 11 cases (Case No. [18-12378-KG]) (jointly and severally, the “**Company**”) will be subject to the terms of this Schedule I.<sup>1</sup> Capitalized terms used herein without definition shall have the meanings assigned to them in the Engagement Letter. It is understood and agreed that in the event that Teneo or any of our affiliates, or any of our or their respective directors, officers, members, employees, agents, attorneys, consultants, and any direct or indirect controlling persons thereof, if any (Teneo and each such individual or entity, an “**Indemnified Person**”), become involved in any capacity in any action, claim, proceeding or governmental or civil investigations, or inquiry, subpoena, discovery request, or demand (“**Actions**”) (brought or threatened by or against any person, including the Company's security holders or creditors) related to, arising out of or in connection with our engagement, advice or services rendered or to be rendered by an Indemnified Person pursuant to the Agreement, the transaction contemplated thereby or any Indemnified Persons' actions or inactions in connection with any such advice, services or transaction, the Company will promptly reimburse each such Indemnified Person for its expenses in connection with the investigation, preparation and defense thereof (including, without limitation, fees and disbursements of counsel and costs of vendors reasonably required to assist in the recovery, review and production of electronically stored data) as and when they are incurred in connection therewith. The Company will indemnify and hold harmless each Indemnified Person from and against any losses, claims, damages, judgments, assessments, expenses and other liabilities to which any Indemnified Person may become subject under any applicable federal or state law, or otherwise, related to, arising out of or in connection with our engagement, advice or services rendered or to be rendered by an Indemnified Person pursuant to the Agreement, the transaction contemplated thereby or any Indemnified Persons' actions or inactions in connection with any such advice, services or transaction, in each case whether or not any pending or threatened Action giving rise to such losses, claims, damages, liabilities or expenses is initiated or brought by the Company or on its behalf and whether or not in connection with any Action in which the Company or any such Indemnified Person are a party, except to the extent that any such loss, claim, damage, liability or expense is found by a court of competent jurisdiction in a judgment which has become final in that it is no longer subject to appeal or review to have resulted primarily from such Indemnified Person's bad faith or gross negligence. The Company shall also reimburse such Indemnified Person for all expenses as they are incurred in connection with enforcing such Indemnified Persons' rights under the Agreement (including without limitation its rights under this Schedule I). Such Indemnified Person shall reasonably cooperate, at the cost of the Company, with the defense of any Actions.

No Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or its security holders or creditors, or the Committee, related to, arising out of or in connection with our engagement, advice or services rendered or to be rendered

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<sup>1</sup> It is expressly understood and agreed that all references to obligations of the Company under the terms of the Engagement Letter and this Schedule I shall be obligations of the Company pursuant to the order entered by the Court pursuant to and in accordance with the Teneo retention application.



by an Indemnified Person pursuant to the Agreement, the transaction contemplated thereby or any Indemnified Persons' actions or inactions in connection with any such advice, services or transaction; except to the extent that any loss, claim, damage or liability is found by a court of competent jurisdiction in a judgment which has become final in that it is no longer subject to appeal or review to have resulted primarily from such Indemnified Person's bad faith or gross negligence. If multiple claims are brought against any Indemnified Person in an arbitration related to, arising out of or in connection with our engagement, and indemnification is permitted under applicable law with respect to at least one such claim, any arbitration award shall be conclusively deemed to be based on claims as to which indemnification is permitted and provided for hereunder, except to the extent the arbitration award expressly states that the award, or any portion thereof, is based solely on a claim as to which indemnification is not available.

If for any reason the foregoing indemnification is held unenforceable or is otherwise unavailable, then the Company shall contribute to the loss, claim, damage, liability or expense for which such indemnification is held unenforceable in such proportion as is appropriate to reflect the relative benefits received, or sought to be received, by the Company and its security holders and creditors on the one hand and the Indemnified Persons on the other hand in the matters contemplated by our engagement as well as the relative fault of the Company and such persons with respect to such loss, claim, damage, liability or expense and any other relevant equitable considerations. For the purposes hereof the relative benefits received, or sought to be received, by the Company and its security holders and creditors and the Indemnified Persons shall be deemed to be in the same proportion as (i) the total value paid or proposed to be paid by or to the Company and its security holders and creditors, as the case may be, pursuant to any transaction (whether or not consummated) in connection with which we have been engaged to perform investment banking services bears to (ii) the fees paid or proposed to be paid to us in connection with such engagement; provided, however, that, to the extent permitted by applicable law, in no event shall we or any other Indemnified Person be required to contribute an aggregate amount in excess of the aggregate fees actually paid to us for such investment banking services. The Company's reimbursement, indemnity and contribution obligations under this agreement shall be joint and several, shall be in addition to any liability which the Company may otherwise have, shall not be limited by any rights we or any other Indemnified Person may otherwise have and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company, ourselves, and any other Indemnified Persons. The obligations set forth in this Schedule I shall remain in effect notwithstanding any termination, expiration or completion of Teneo's engagement.

Without our prior written consent (which will not be unreasonably withheld), the Company will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action, proceeding or investigation in respect of which indemnification or contribution could be sought hereunder (whether or not we or any other Indemnified Persons are an actual or potential party to such claim, action, proceeding or investigation), unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action, proceeding or investigation. The Company will not permit any such settlement, compromise, consent or termination to include a statement as to, or an admission of, fault, culpability or a failure to act by or on behalf of an Indemnified Person, without such Indemnified Person's consent. No waiver, amendment or other modification of this agreement shall be effective unless in writing and signed by each party to be bound thereby. This Schedule I and any claim related directly or indirectly to this Schedule I shall be governed and construed in accordance with the laws of the State of New York

(without giving regard to the conflicts of law provisions thereof). No such claim shall be commenced, prosecuted or continued in any forum other than the courts of the State of New York located in the City and County of New York or the United States District Court for the Southern District of New York or, during the pendency of the Company's chapter 11 proceedings, the Bankruptcy Court for the District of Delaware, and each of us hereby submits to the jurisdiction of such courts. The Company hereby waives on behalf of itself and its successors and assigns any and all right to argue that the choice of forum provision is or has become unreasonable. The Company (on its own behalf and, to the extent permitted by applicable law, on behalf of its security holders and creditors) waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to, arising out of or in connection with our engagement or this Schedule I. The obligations set forth in this Schedule I shall remain in effect indefinitely, notwithstanding any termination or expiration of our engagement.



**EXHIBIT C**

Proposed 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)
	)	Related Docket Nos.: ____

**ORDER GRANTING APPLICATION OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS FOR AN ORDER UNDER BANKRUPTCY CODE  
SECTIONS 328 AND 1103, BANKRUPTCY RULE 2014, AND LOCAL RULE 2014-1  
APPROVING THE EMPLOYMENT AND RETENTION OF TENEO CAPITAL  
LLC AS INVESTMENT BANKER AND FINANCIAL  
ADVISOR *NUNC PRO TUNC* TO OCTOBER 30, 2018**

Upon the application (the “Application”)<sup>2</sup> of the Committee for entry of an order authorizing the employment and retention of Teneo Capital LLC (“Teneo”) as investment banker and financial advisor to the Committee *nunc pro tunc* to October 30, 2018; and upon the Declaration of Christopher K. Wu filed in support of the Application; and it appearing that proper notice of the Application has been given and that no further notice or hearing is required; and the Court being satisfied based on the representations made in the Application and the Declaration that (i) Teneo represents no interest adverse to the Debtors’ estate or the Debtors’ creditors, other than its representation of the Committee in this case, and (ii) the employment of Teneo is necessary and would be in the best interests of the Committee and the Debtors’ estates, and after due deliberation thereon, and sufficient cause appearing therefor it is hereby ordered, adjudged, and decreed that:

1. The Application is granted as set forth herein.

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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 not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

2. In accordance with Bankruptcy Code sections 328 and 1103(a), the Committee is authorized to employ and empowered to retain Teneo as its investment banker and financial advisor, *nunc pro tunc* to October 30, 2018.

3. Compensation and reimbursement for out-of-pocket expenses to be paid to Teneo, as set forth in the Application, shall be paid as an administrative expense of the Debtors' estates in such amount as shall be allowed and determined upon appropriate applications to the Court and shall be subject to review under Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, the Local Rules, and such other procedures as may be fixed by order of this Court.

4. Teneo is granted a waiver of the information requirements relating to compensation requests set forth in Local Rule 2016-2(d) to the extent requested in the Application. Teneo is authorized to record its time in one-hour increments, and is not required to record its time with activity codes for tasks performed during these cases.

5. Notwithstanding anything to the contrary in the Engagement Letter or the Application, the following indemnification provisions are hereby approved, as modified and restated herein, as follows:

- a. Teneo shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Letter for services other than those described in the Engagement Letter, unless such services and indemnification, contribution or reimbursement therefore are approved by the Court.
- b. The Debtors shall have no obligation to indemnify Teneo, or provide contribution or reimbursement to Teneo, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Teneo's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtors alleged the breach of Teneo's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing, to be a claim or expense which Teneo should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter as modified by this Order; and

- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these Chapter 11 Cases, Teneo believes that it is entitled to the payment of any amounts by the Debtors on account of the indemnification, contribution and/or reimbursement obligation under the Engagement Letter (as modified by this Order), including without limitation the advancement of defense costs, Teneo must file an application therefore in this Court, and the Debtors may not pay any such amounts to Teneo before the entry of an Order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Teneo for indemnification, contribution, or reimbursement, and not to limit the duration of the Debtors' obligation to indemnify Teneo. All parties in interest shall retain the right to object to any demand by Teneo for indemnification, contribution, or reimbursement. If, during the pendency of these Chapter 11 Cases, the indemnification is held unenforceable by reason of the exclusions set forth in subparagraph (b) above (i.e., gross negligence, willful misconduct or fraud), or for a contractual dispute in which the Debtors allege the breach of Teneo's contractual obligations (if the Court determines that indemnification would not be permissible pursuant to the United Artists decision) and Teneo makes a claim for payment of amounts by the Debtors on account of the Debtors' contribution obligations, then the proviso set forth in the second sentence of the third paragraph of the Schedule 1 of the Engagement Letter shall not apply. The Indemnified Persons shall retain any rights they may have to contribution at common law.

6. The terms of the Engagement Letter are approved and the Debtors will be bound by such terms and Teneo is authorized to perform the services enumerated in the Application, Engagement Letter, and Wu Declaration.

7. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

**CERTIFICATE OF SERVICE**

I, Jose F. Bibiloni, hereby certify that on November 19, 2018, I served or caused to be served the foregoing *Application of the Official Committee of Unsecured Creditors for an Order Under Bankruptcy Code Sections 328 and 1103, Bankruptcy Rule 2014, and Local Rule 2014-1 Approving the Employment and Retention of Teneo Capital LLC as Investment Banker and Financial Advisor Nunc Pro Tunc to October 30, 2018* (the “Application”), together with the *Notice of the Application*, upon the persons listed on the attached service list via U.S. first-class mail, postage fully pre-paid.

/s/ Jose F. Bibiloni

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