

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

In re:

WELDED CONSTRUCTION, L.P., *et al.*,

Debtors.

)
) Chapter 11
)
) Case No. 18-12378 (CSS)
)
) (Jointly Administered)
)
) Re: Docket No. 1706

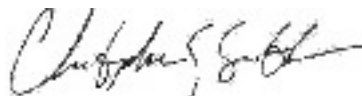
**ORDER APPROVING THE STIPULATION FOR WITHDRAWAL OF THE PROOFS
OF CLAIM OF ZURICH AMERICAN INSURANCE COMPANY**

Upon consideration of the *Stipulation for Withdrawal of the Proofs of Claim of Zurich American Insurance Company* (the “**Stipulation**”), a copy of which is attached hereto as **Exhibit 1**; and the Court having determined that (a) the Court has jurisdiction over this matter 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 February 29, 2012; (b) venue is proper in this district pursuant to 28 U.S.C. § 1409; (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (d) notice of the Stipulation was sufficient under the circumstances; and after due deliberation, the Court, having determined that good and adequate cause exists for approval of the Stipulation:

IT IS HEREBY ORDERED THAT:

1. The Stipulation is APPROVED.
2. This Court retains jurisdiction over any and all issues arising from or related to the implementation of this Order.

Dated: February 2nd, 2021
Wilmington, Delaware



CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE



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Exhibit 1

Stipulation

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

In re:

WELDED CONSTRUCTION, L.P., *et al.*,¹

Debtors.

)
) Chapter 11
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**STIPULATION FOR WITHDRAWAL OF THE PROOFS OF CLAIM
OF ZURICH AMERICAN INSURANCE COMPANY AND RELATED RELIEF**

The Post-Effective Date Debtors, by and through the Plan Administrator² on the one hand, and Zurich American Insurance Company (together with its affiliates and successors, “**Zurich**” and together with the Post-Effective Date Debtors, each a “**Party**” and collectively, the “**Parties**”), on the other hand, hereby enter into this stipulation (the “**Stipulation**”) with respect to the withdrawal of the Zurich Proofs of Claim (as defined herein) filed in the above-captioned Chapter 11 Cases and which are described on **Exhibit A** hereto and for the related relief set forth more fully below.

RECITALS

A. On October 22, 2018 (the “**Petition Date**”), the Debtors filed voluntary petitions in the United States Bankruptcy Court for the District of Delaware (the “**Court**”) for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, thereby commencing the Chapter 11 Cases.

¹ 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.

² Capitalized terms used herein and not defined shall have the meaning given to such terms in the Plan (as defined herein).

B. Prior to and after the Petition Date, Zurich issued certain insurance policies (as renewed, amended, modified, endorsed or supplemented from time to time, collectively, the “**Zurich Policies**”) to one or more of the Debtors, or their affiliates or predecessors, as named insureds.

C. Pursuant to the Zurich Policies and any agreements related thereto (collectively, the “**Zurich Insurance Program**”), Zurich provides automotive, general liability, and other insurance for specified policy periods subject to certain limits, deductibles, retentions, exclusions, terms and conditions, as more particularly described therein, and the insureds, including one or more of the Debtors, are required to pay to Zurich certain amounts, including, but not limited to, insurance premiums, deductibles, funded deductibles, expenses, taxes, assessment and surcharges, as more particularly described in the Zurich Insurance Program (collectively, the “**Zurich Obligations**”).³

D. The Zurich Obligations are payable over an extended period of time and are subject to future audits and adjustment.

E. Prior to the Petition Date, Debtor Welded Construction, L.P. posted a certain letter of credit for the benefit of Zurich (the “**LOC**”).⁴ The LOC was intended to collateralize the Zurich Obligations.

F. The Court entered orders establishing February 28, 2019 at 5:00 p.m. (ET) and April 30, 2019 at 5:00 p.m. (ET) as the deadlines for creditors and parties-in-interest, with the

³ The Obligations include both monetary and non-monetary obligations that the insureds, including one or more of the Debtors, may have.

⁴ The LOC was paid for by Bechtel Corporation and/or its affiliates (collectively “**Bechtel**”) for the benefit of the Debtors. Pursuant to that certain Plan Settlement Agreement (as defined by and approved in connection with the Plan), the Debtors agreed that (i) any Residual LOC Proceeds are not property of the Debtors’ Estates that shall vest in the Post-Effective Date Debtors but shall be the sole and exclusive property of Bechtel; and (ii) any Residual LOC Proceeds that are refunded to the Post-Effective Date Debtors shall be forwarded to Bechtel by the Plan Administrator within three (3) Business Days after receipt of such Residual LOC Proceeds.. See Plan Settlement Agreement ¶ 8, Ex A. to Plan, [Doc. No. 1505-1].

exception of governmental units to file both prepetition and administrative expense claims, respectively, against the Debtors (collectively, the “**Bar Date**”) [Doc Nos. 403 & 554].

G. Prior to the Bar Date, Zurich timely filed three proofs of claim, listed on **Exhibit A** hereto, against each of the Debtors on account of the Zurich Obligations (collectively, the “**Zurich Proofs of Claim**”).

H. On May 8, 2020, the Debtors filed the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan LLC* (the “**Plan**”) [Doc. No. 1363] and the *Amended Disclosure Statement for the Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* [Doc. No. 1364].

I. On June 25, 2020, the Court confirmed the Plan [Doc. No. 1505].

J. Section 3.5 of the Plan governs the treatment of the Insurance Contracts, including the Zurich Insurance Program, and is incorporated by reference herein.

K. The Effective Date of the Plan occurred on July 31, 2020 [Doc. No. 1555].

L. On the Effective Date, among other things, the Zurich Insurance Program vested with the Post-Effective Date Debtors pursuant to Section 3.5 of the Plan.

M. In light of the treatment of the Zurich Insurance Program under the Plan, the Parties hereby stipulate to the withdrawal of the Zurich Proofs of Claim.

N. Under the terms of the Plan (including the Plan Settlement), the Debtors and Bechtel agreed that Bechtel is entitled to any Residual LOC Proceeds.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The recitals set forth above are incorporated herein by this reference as though set forth herein.

2. This Stipulation shall be effective upon the date the order approving this Stipulation becomes a Final Order (the “**Stipulation Effective Date**”).

3. Upon the Stipulation Effective Date, pursuant to Plan Section 3.5(b), the automatic stay of Bankruptcy Code section 362(a) (the “**Automatic Stay**”) and the injunctions set forth in Article XI of the Plan (collectively, the “**Plan Injunction**”), if and to the extent applicable, shall be deemed modified to permit Zurich (but not any other person, entity, or claimant) to administer, handle, defend, settle, and/or pay, in the ordinary course of business and without further order of the Court, any automobile or general liability claims asserted to be covered under the Zurich Insurance Program. For the avoidance of doubt, neither the Automatic Stay nor the Plan Injunction are modified by this stipulation to allow for the continuation of any litigation, the entry of any judgment, or the fixing of liability against the Post-Effective Debtors or their estates unless relief from the Automatic Stay or Plan Injunction is obtained by separate order of the Court.

4. Upon the Stipulation Effective Date, the Zurich Proofs of Claim shall be deemed withdrawn (the “**Stipulated Withdrawal**”).

5. The Post-Effective Date Debtors and the Plan Administrator shall treat any claims asserted by Zurich in accordance with Section 3.5 of the Plan. For the avoidance of doubt, pursuant to Section 3.5(e) of the Plan, any payment, pecuniary, reimbursement or other financial or monetary obligations of the Debtors, their Estates or the Post-Effective Date Debtors owing to Zurich under the Zurich Insurance Program, including, but not limited to, reimbursement for payments within a deductible, shall be satisfied solely from existing collateral and/or security, including without limitation the LOC, held by Zurich in the ordinary course and pursuant to the terms of the Zurich Policies, and to the extent that any such collateral and/or security is insufficient to satisfy any such obligations, Zurich shall have no recourse to the Debtors, their Estates or the

Post-Effective Date Debtors, and hereby waives 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 Section 3.5(e) of the Plan shall modify the scope of, or alter in any other way, the rights of Zurich to assert any setoff and recoupment rights.

6. The Clerk of the Court and the Notice and Claims Agent, as applicable, are hereby authorized to reflect the Stipulated Withdrawal on the docket and Claims Register for the above-referenced case.

7. Upon the Stipulation Effective Date, pursuant to the terms of Plan Section 3.5(b), the Automatic Stay and the Plan Injunction, if and to the extent applicable, shall be deemed modified to permit Zurich to exercise its setoff and recoupment rights solely as against existing collateral and/or security, including without limitation the LOC, held by Zurich in the ordinary course and pursuant to the terms of the Zurich Policies, *provided, however*, Zurich shall continue to provide information and accountings of the Zurich Policies and Insurance Program, including the LOC, upon request of the Post-Effective Date Debtors so long as the Chapter 11 Cases remain open. The Post-Effective Date Debtors agree that the amount of the Residual LOC Proceeds, if any, shall be decided by the agreement of, or litigation between, Zurich and Bechtel, and any determination reached as to the amount of the Residual LOC Proceeds, or their payment as provided in the next sentence, does not need the approval of the Post-Effective Date Debtors, nor the approval of this Court, *provided, however*, to the extent the Chapter 11 Cases remain open, Zurich shall provide counsel to the Post-Effective Date Debtors with reasonable prior notice of the conclusion of the Zurich Insurance Program and any final determination reached as to the amount of the Residual LOC Proceeds, *provided, further*, that no final determination reached as to the amount of the Residual LOC Proceeds shall create or give rise to any claims against the Post-

Effective Debtors or their estates. Zurich agrees that it will pay the Residual LOC Proceeds directly to Bechtel or its applicable affiliate. For the avoidance of doubt, Zurich's obligation to keep the Post-Effective Date Debtors reasonably apprised of matters relating to the Zurich Insurance Program and Residual LOC Proceeds shall cease upon the entry of a final decree closing the Chapter 11 Cases.

8. Except as set forth herein, nothing herein is intended to or shall be deemed to amend or otherwise alter the terms of the Plan, the LOC, the Zurich Policies or the Zurich Insurance Program, under which Zurich may continue to defend and pay claims insured under the Zurich Policies in accordance with the terms of the Zurich Policies and applicable law.

9. This Stipulation may be executed in counterparts, each of which shall be deemed an original and evidence of this Stipulation may be exchanged by fax or by electronic transmission of a scanned copy of the signature pages or by exchange of originally signed documents.

10. All representations, warranties, inducements, and/or statements of intention made by the Parties that relate to this Stipulation are embodied in the Stipulation, and none of the Parties relied upon, will be bound by or will be liable for any alleged representation, warranty, inducement or statement of intention that is not expressly set forth in this Stipulation.

11. Each person who executes this Stipulation represents and warrants that he or she is duly authorized and has requisite authority to execute and deliver this Stipulation on behalf of such Party and to bind his or her respective Party to the terms and conditions of this Stipulation.

12. This Stipulation constitutes the entire agreement between the Parties with respect to the matters addressed herein and may not be modified except in a writing signed by the Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Stipulation to be executed as of the day and year written below.

DATED: February 2, 2021
Wilmington, Delaware

BLANK ROME LLP

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Counsel to Zurich American Insurance Company

EXHIBIT A**Zurich Proofs of Claim**

	Creditor	Debtor	Case No.	Date Filed	Claim No.	Claim Type
1.	Zurich American Insurance Company	Welded Construction, L.P.	18-12378	1/2/2019	140	General Unsecured
2.	Zurich American Insurance Company	Welded Construction, L.P.	18-12378	4/30/2019	787	Administrative Expense
3.	Zurich American Insurance Company	Welded Construction Michigan, LLC	18-12379	4/30/2019	788	Administrative Expense