

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>In re</p> <p>NPC INTERNATIONAL, INC.,</p> <p style="text-align: center;">Debtor.¹</p>	§ § § § § § §	<p>Chapter 11</p> <p>Case No. 20–33353 (DRJ)</p>
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**STIPULATION REGARDING
ARCH INSURANCE COMPANY COLLATERAL AND PROOFS OF CLAIM**

This stipulation (the “**Stipulation**”) is made as of April 1, 2022, by and among Arch Insurance Company (“**Arch**”) and the Plan Administrator, on behalf of the NPC International, Inc., Liquidating Trust, as successor-in-interest to the above-captioned debtor (the “**Liquidating Trust**”). Arch and the Plan Administrator collectively are referred to in this Stipulation as the “**Parties**,” and, each, as a “**Party**.” The Parties hereby stipulate and agree as follows:

RECITALS

A. WHEREAS, on July 1, 2020 (the “**Petition Date**”), NPCI and certain of its debtor affiliates (the “**Debtors**”) each commenced a voluntary case (collectively, the “**Chapter 11 Cases**”) under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are NPC International, Inc. (7298) (“**NPCI**”); NPC Restaurant Holdings I LLC (0595); NPC Restaurant Holdings II LLC (0595); NPC Holdings, Inc. (6451); NPC International Holdings, LLC; (8234); NPC Restaurant Holdings, LLC (9045); NPC Operating Company B, Inc. (6498); and NPC Quality Burgers, Inc. (6457). On June 25, 2021, the Court entered a final decree closing each of the chapter 11 cases other than NPCI’s chapter 11 case [Docket No. 1785]. Commencing on June 25, 2021, all motions, notices and other pleadings relating to any of the Debtors shall be filed in NPCI’s chapter 11 case. The Debtors’ corporate headquarters and service address is 720 W. 20th Street, Pittsburg, KS 66762.

B. WHEREAS, on January 29, 2021, the Bankruptcy Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming Second Amended Joint Chapter 11 Plan of NPC International, Inc. and Its Affiliated Debtors* [Docket No. 1528] (the “**Confirmation Order**”), confirming the *Second Amended Joint Chapter 11 Plan of NPC International, Inc. and Its Affiliated Debtors* [Docket No. 1477] (as supplemented and amended, the “**Plan**”).² The effective date of the Plan occurred on March 31, 2021 (the “**Plan Effective Date**”).³

C. WHEREAS, upon the occurrence of the Plan Effective Date, the Liquidating Trust was formed and the Plan Administrator was appointed to wind down the Debtors’ estates through the Liquidating Trust.

D. WHEREAS, on June 25, 2021, the Bankruptcy Court entered the *Final Decree Closing Certain of the Chapter 11 Cases* [Docket No. 1785], closing the Chapter 11 Cases of the Debtors other than NPCI, and amending the case caption in connection therewith.

E. WHEREAS, Arch timely filed proofs of claim numbered 20331, 20336, and 20337, against NPC International, Inc., NPC Restaurant Holdings, LLC, and NPC Quality Burgers, Inc., respectively (collectively, the “**Arch Surety Filed Proofs of Claim**”), in respect of the Existing Surety Bonds,⁴ the Existing Indemnity Agreement, as well as the Surety Collateral.⁵ The Debtors

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Plan or the Confirmation Order, as applicable.

³ See Notice of (I) Entry of Order Confirming Joint Chapter 11 Plan of NPC International Inc. and its Affiliated Debtors, (II) Occurrence of Effective Date, (III) Administrative Expense Claim Bar Date, and (IV) Driver Claimant Admin Bar Date [Docket No. 1643].

⁴ As of the Petition Date, the aggregate penal limit of the Existing Surety Bonds was \$559,479.

⁵ As of the Petition Date, Arch was the beneficiary under Irrevocable Standby Letter of Credit No. 007339955 in the amount of \$281,240 from Mizuho Bank, LTD (the “**Mizuho Letter of Credit**”), and the beneficiary under Irrevocable Standby Letter of Credit No. LG/MIS/NY-162692 in the amount of \$421,860 from Sumitomo Mitsui Banking Corporation (the “**Sumitomo Letter of Credit**,” and together with the Sumitomo Letter of Credit, the “**Letters of Credit**”).

also scheduled Arch's surety bond-related claims in Schedule Nos. 353003920 and 353003930 (together, the "**Arch Scheduled Surety Claims**").

F. WHEREAS, Paragraph 32.f. of the Confirmation Order provides, among other things, that "[u]pon the (i) satisfaction of all payment and performance obligations under the Existing Surety Bonds and the Existing Indemnity Agreement, including, without limitation, the payment and/or reimbursement from the Surety Collateral of all loss, premiums, fees, and expenses, including reasonable attorneys' fees . . . and (ii) the termination and release of the Existing Surety Bonds, . . . Arch is irrevocably directed to (and without recourse to Arch) . . . (II) release the remaining proceeds of any drawn letters of credit to the Debtors or the Plan Administrator, as applicable, . . ." for use in accordance with the provisions of Paragraph 32.f. and the Plan.

G. WHEREAS, as a result of claims and demands under the Existing Surety Bonds, Arch drew down the Letters of Credit to satisfy those claims and demands, and to otherwise reimburse losses and expenses under the Existing Surety Bonds and the Existing Indemnity Agreement.

H. WHEREAS, as of March 21, 2022, Arch was holding proceeds of the now-drawn Letters of Credit in the amount of \$281,987.39 (the "**Current LOC Proceeds**").

I. WHEREAS, as of the date hereof, all claims and demands under the Existing Surety Bonds have been satisfied other than Bond No. SU 1159437 naming NPC Quality Burgers, Inc., as principal, and the City of Frederick, as obligee, in the amount of \$31,536 (the "**City of Frederick Bond**").

J. WHEREAS, the Liquidating Trust is working with the City of Frederick to obtain the release of the City of Frederick Bond.

K. WHEREAS, Arch has incurred and continues to incur costs and expenses in connection with the City of Frederick Bond and the Existing Indemnity Agreement.

L. WHEREAS, the Liquidating Trust has requested that Arch release a portion of the Current LOC Proceeds to the Liquidating Trust pending the release of the City of Fredrick Bond, and additionally provide a mechanism for the withdrawal of the Arch Surety Filed Proofs of Claim and the Arch Surety Scheduled Claims in the event that the Arch Surety Filed Proofs of Claim and the Arch Surety Scheduled Claims are fully satisfied by the Surety Collateral as provided in the Confirmation Order.

M. WHEREAS, Arch is willing to release a portion of the Current LOC Proceeds to the Liquidating Trust, and provide a mechanism for the withdrawal of the Arch Surety Filed Proofs of Claim and the Arch Surety Scheduled Claims, without prejudice to its rights in any of its then remaining proceeds of the Letters of Credit.

NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IN EXCHANGE FOR GOOD AND VALUABLE MUTUAL CONSIDERATION, THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, IT HEREBY IS STIPULATED AND AGREED, BY AND BETWEEN THE PARTIES, THROUGH THE UNDERSIGNED, AND UPON BANKRUPTCY COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. The Stipulation shall have no force or effect unless and until approved by the Bankruptcy Court (the “**Effective Date**”).

2. Arch has provided the Liquidating Trust with an accounting of the sources and uses of the Surety Collateral, and the Liquidating Trust consents to, and otherwise releases Arch from

and against any claims, known or unknown, with respect to, arising out of, or relating to, Arch's use of the Surety Collateral through March 21, 2022.

3. Upon the Effective Date, pursuant to Paragraph 32.f. of the Confirmation Order, Arch is irrevocably directed (and without recourse to Arch) to deliver \$221,987.39 (the "**Released LOC Proceeds**") of the Current LOC Proceeds to the Liquidating Trust promptly, but not more than thirty (30) days after the Effective Date. Arch's delivery of the Released LOC Proceeds to the Liquidating Trust pursuant to this paragraph 3 shall be in furtherance of its obligations under Paragraph 32.f. of the Confirmation Order, and Arch shall have no liability to the Liquidating Trust or the Plan Administrator, and shall be released of and from any claims or liabilities of any kind or character, from the Liquidating Trust and the Plan Administrator, whether known or unknown, with respect to, arising out of, or otherwise relating to the Released LOC Proceeds. Additionally, upon receipt by the Liquidating Trust of the Released LOC Proceeds, Arch waives, releases, and discharges the Liquidating Trust and the Plan Administrator, as applicable, of and from any rights, or claims to the Released LOC Proceeds.

4. Upon delivery of the Released LOC Proceeds pursuant to paragraph 3 above, the remaining balance of the proceeds of the Letters of Credit will be \$60,000 (the "**Remaining LOC Proceeds**"). The Parties acknowledge, confirm, and agree that the Remaining LOC Proceeds are Surety Collateral under Paragraph 32.f. of the Confirmation Order, and nothing herein shall modify, alter, limit, waive or release any of Arch's rights, claims, and/or interests in any such Surety Collateral in respect of the Existing Surety Bonds (which as of the date hereof include only the City of Frederick Bond), the Existing Indemnity Agreement, or under the Confirmation Order.

The Liquidating Trust and the Plan Administrator, as applicable, reserve all of their respective rights in any such Remaining LOC Proceeds under the Confirmation Order.

5. If and to the extent the City of Frederick Bond is released, and the conditions for the release and return of any Remaining LOC Proceeds under the Confirmation Order are satisfied in full, Arch shall deliver the then Remaining LOC Proceeds, if any, as soon as reasonably practicable, to the Liquidating Trust pursuant to the terms of the Confirmation Order; *provided, that*, the delivery of the then Remaining LOC Proceeds shall be subject to (i) Arch providing an accounting of the sources and uses of such Surety Collateral and (ii) the Parties agreeing to the amount to be delivered prior to the delivery of the then Remaining LOC Proceeds. Upon such delivery, the Arch Surety Filed Proofs of Claim and the Arch Surety Scheduled Claims shall be deemed withdrawn, and the same shall be deemed satisfied in full from Surety Collateral, and the Liquidating Trust, Plan Administrator, and Arch shall be released of and from any claims of any kind or character, known or unknown, from the Liquidating Trust, Plan Administrator, or Arch, as applicable, with respect to, arising out of, or relating to, Arch's use of the Surety Collateral, the Plan, the Debtors' Chapter 11 Cases, or otherwise.⁶ For the avoidance of doubt, the Arch Surety Filed Proofs of Claim and Arch Surety Scheduled Claims shall be deemed withdrawn and the claims register shall be updated accordingly upon the delivery of the Remaining LOC Proceeds to the Liquidating Trust, as outlined in this paragraph 5.⁷

⁶ If there are no Remaining LOC Proceeds when the City of Frederick Bond is released, then the Arch Surety Filed Proofs of Claim and the Arch Surety Scheduled Claims shall be deemed withdrawn after (i) Arch has provided an accounting of the sources and uses of such Surety Collateral and (ii) the Parties agree that, based on such accounting, there are no Remaining LOC Proceeds.

⁷ As provided in Section 7.4 of the Plan, "any Claim...that has been paid or satisfied...may be adjusted or expunged on the claims register by the...Plan Administrator...upon stipulation between the parties in interest without a Claims objection having to be filed and without any further notice or action, order, or approval of the Bankruptcy Court."

6. Except as expressly provided herein, nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iii) an agreement or obligation to pay any claims, or (iv) a waiver by the Debtors of their right to object to any and all proofs of claim, including for the avoidance of doubt the Arch Surety Filed Proofs of Claim.

7. Each person who executes this Stipulation represents that he or she is duly authorized to do so on behalf of the respective Parties and that each such Party has full knowledge and has consented to this Stipulation.

8. This Stipulation shall not be modified, altered, amended, or vacated except in a writing signed by a duly authorized representative of all Parties. Oral modification shall not be permitted.

9. This Stipulation is binding on, and inures to the benefit of, each of the Parties, and any of their successors, assigns, and/or representatives.

10. This Stipulation may be executed in identical counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. Signatures of this Stipulation transmitted by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or other electronic means will have the same effect as physical delivery of the paper document bearing an original signature.

11. The Confirmation Order, as supplemented by this Stipulation, shall constitute the entire agreement and understanding of the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

12. This Stipulation shall be governed by, construed, and enforced in accordance with the laws of the State of Texas, except to the extent that the Bankruptcy Code applies, without regard to principles of conflicts of law that would require the application of laws of another jurisdiction. Each Party agrees that the Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from this Stipulation.

IT IS SO ORDERED

Signed: _____, 2022

THE HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

[Signature Page Follows]

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of
the day and year first below written.

Dated: April 1, 2022

By: /s/ Alfredo R. Pérez
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Dated: April 1, 2022

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