

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re:	)	Chapter 11
	)	
PROTERRA INC, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-11120 (BLS)
	)	
Debtors.	)	(Joint Administration Requested)
	)	

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**DEBTORS’ MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS  
(I) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL,  
(II) GRANTING ADEQUATE PROTECTION, (III) MODIFYING  
THE AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF**

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The above-captioned debtors and debtors in possession (together, the “Debtors”) respectfully state as follows in support of this motion (this “Motion”):<sup>2</sup>

**Relief Requested**

1. By this Motion, the Debtors seek entry of: (a) an interim order (the “Proposed Interim Order”), substantially in the form attached hereto as **Exhibit A**, (i) authorizing the Debtors to use “cash collateral” as such term is defined in section 363 of the Bankruptcy Code (the “Cash Collateral”) on an interim basis pending a final hearing (the “Final Hearing”) (such interim period, the “Interim Period”), (ii) granting adequate protection to the Prepetition Secured Parties (as defined below), (iii) modifying the automatic stay on the terms proposed herein, (iv) scheduling the Final Hearing, and (v) granting related relief; and (b) entry of a final order granting the relief

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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 as follows: Protterra Inc (1379); and Protterra Operating Company, Inc. (8459). The location of the Debtors’ service address is: 1815 Rollins Road, Burlingame, California 94010.

<sup>2</sup> A detailed description of the Debtors and their business, including the facts and circumstances giving rise to these Chapter 11 Cases and supporting this Motion, is set forth in the *Declaration of Gareth T. Joyce in Support of Chapter 11 Petitions and First Day Motions* (the “Joyce Declaration”) (Docket No. 16) and incorporated herein by reference. Capitalized terms used but not defined in this Motion have the meanings ascribed to them in the First Day Declaration.



requested in this Motion on a final basis (the “Final Order” and, together with the Proposed Interim Order, the “Cash Collateral Orders”).

2. For reasons discussed below, the Debtors did not engage with the Prepetition Secured Parties prior to commencing these Chapter 11 Cases. Almost immediately after filing their chapter 11 petitions, the Debtors, through their advisors, emailed counsel to the Prepetition Secured Parties to notify them of the Chapter 11 Cases and request their consent to use Cash Collateral.<sup>3</sup> Within one day, the Debtors and Bank of America reached an agreement on the consensual use of Cash Collateral during the Interim Period as set forth in the Proposed Interim Order. As set forth below, the Intercreditor Agreement requires the Second Lien Secured Parties to consent (or are deemed to have consented) to the Debtors’ use of cash collateral in these circumstances, and in any event, the Second Lien Secured Parties are adequately protected. The Debtors are engaged in ongoing, good-faith negotiations with the Second Lien Secured Parties, and hope to reach an agreement with regard to the Debtors’ use of Cash Collateral in time for the hearing on this Motion.

3. In support of this Motion, the Debtors submit (i) the *Declaration of Justin D. Pugh in Support of Debtors’ (I) Cash Collateral Motion and (II) Vendor Claimants’ Motion* (the “Pugh Declaration”) filed contemporaneously herewith, (ii) the *Declaration of John Kimm in Support of the Debtors’ Motion for Entry of: (I) an Order (A) Approving Bidding Procedures to Govern the Sale of All or Substantially All of the Debtors’ Assets Pursuant to Section 363 of the Bankruptcy Code, (B) Approving Procedures Regarding Entry into One or More Stalking Horse Agreements (C) Establishing Procedures for the Assumption and Assignment of Executory Contracts and*

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<sup>3</sup> Specifically, counsel to the Debtors emailed counsel to Bank of America (the First Lien Agent) and counsel to the Cowen Parties (the Second Lien Agent and the holder of 98% of the Second Lien Convertible Notes).

*Unexpired Leases, (D) Approving the Form and Manner of the Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases, (E) Schedule Auctions of for the Sales of the Company Assets and Hearings to Consider Approval of the Sales and Approving the Form and Manner of the Notice Thereof, (F) Approving Certain Wind-Down Procedures, and (G) Granting Related Relief; and (II) An Order (A) Authorizing and Approving the Debtors' Entry into One or More Asset Purchase Agreements, (B) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of Liens, (C) Approving the Assumption and Assignment of the Assumed Executory Contracts and Unexpired Leases, and (D) Granting Related Relief (the "Kim Declaration") (Docket No. 37), and the Joyce Declaration.*

**Jurisdiction and Venue**

4. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the "Amended Standing Order"). This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

5. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to a final order with respect to this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

6. Venue of these Chapter 11 Cases and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The bases for the relief requested herein are sections 105, 361, 362, 363, 503, 506, 507, and 552 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Rules

2002, 4001, 6003, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 2002-1(b), 4001-2, and 9013-1(m).

**Background**

8. On August 7, 2023 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”) with the Court. The Debtors are authorized to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors contemporaneously filed a motion requesting procedural consolidation and joint administration of these Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases, and no committees have been appointed or designated.

**CONCISE STATEMENT PURSUANT TO  
BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2**

9. Pursuant to Bankruptcy Rule 4001 and Local Rule 4001-2(a), the Debtors submit the following concise statement summarizing the material terms of the Proposed Interim Order.<sup>4</sup>

<b>Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)</b>		<b>Location</b>
<b>Parties with an Interest in Cash Collateral</b> Bankruptcy Rule 4001(b)(1)(B)(i)	(i) Bank of America, N.A. (“ <u>Bank of America</u> ”) as administrative agent (the “ <u>First Lien Agent</u> ”) under the Senior Credit Agreement (as defined below); and (ii) CSI GP I LLC, as collateral agent (the “ <u>Second Lien Agent</u> ”) under the Notes Purchase Agreement (as defined below).	F(a)–(c)
<b>Purposes for Use of Cash Collateral</b> Bankruptcy Rule 4001(b)(1)(B)(ii); Local Rule 4001-2(a)(i)	To avoid immediate and irreparable harm to the Debtors and their estates, the Debtors seek authority to use Cash Collateral for general corporate and working capital purposes, to pay costs in connection with the administration of the Chapter 11 Cases, to make adequate protection payments as contemplated by the Interim Order and to pay other amounts approved by the Court or as required under the Bankruptcy Code.	H

<sup>4</sup> Any summary of the terms of the Proposed Interim Order contained in this Motion is qualified in its entirety by reference to the provisions of the Proposed Interim Order. To the extent that there is a conflict between this Motion and the Proposed Interim Order, the Proposed Interim Order shall control. The Debtors reserve the right to supplement the statements made herein. Capitalized terms used in the summary chart below that are not otherwise defined in this Motion shall have the meaning ascribed to such terms in the Proposed Interim Order.

<b>Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)</b>		<b>Location</b>
<b>Term and Termination Events / Events of Default</b> Bankruptcy Rule 4001(b)(1)(B)(iii); Local Rule 4001-2(a)(i)(M)	The Debtors' authorization to use Cash Collateral shall terminate on the earliest to occur of (the " <u>Termination Date</u> "): (i) 5:00 p.m. (prevailing Eastern Time) on the day after the date of the Final Hearing (unless a Final Order has been entered prior thereto); (ii) the dismissal of the Chapter 11 Cases or the conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code; (iii) the appointment of a trustee or examiner with expanded powers in the Chapter 11 Cases; and (iv) the Debtors' failure to perform, in any material respect, any of their obligations under the Interim Order and such failure continues beyond the Cure Period (as defined in the Interim Order).	3
<b>Release</b> Bankruptcy Rule 4001(b)(1)(B)(iii)	N/A	N/A
<b>Adequate Protection</b> Bankruptcy Rule 4001(b)(1)(B)(iv)	As further provided in the Interim Order, as adequate protection against any postpetition net diminution in the value of the Prepetition Secured Parties' interests in the Collateral resulting from the effect of the automatic stay or the Debtors' use, sale, or disposition of the Collateral during the Chapter 11 Cases, the Agents, for the benefit of the Prepetition Secured Parties, shall receive the following adequate protection: <ul style="list-style-type: none"> <li>(i) the First Lien Agent will receive senior adequate protection liens (the "<u>Senior Adequate Protection Liens</u>"), junior only to the Prepetition First Liens and Permitted Liens which are perfected as of the Petition Date and senior in priority to the Prepetition Liens (the "<u>Senior Permitted Liens</u>") and the Carve-Out, and the Second Lien Agent will receive junior adequate protection liens (the "<u>Junior Adequate Protection Liens</u>" and collectively with the Senior Adequate Protection Liens, the "<u>Adequate Protection Liens</u>") junior only to the Prepetition First Liens, Senior Adequate Protections Liens, Prepetition Second Liens, Senior Permitted Liens which are senior in priority to the Prepetition Second Liens, and the Carve-Out;</li> <li>(ii) the First Lien Agent will receive an Allowed Senior Adequate Protection Superpriority Claim and the Second Lien Agent will receive a Junior Adequate Protection Superpriority Claim pursuant to sections 503(b) and 507(b) of the Bankruptcy Code, having priority over all other administrative claims (other than the Carve-Out) and shall otherwise be subject to the Intercreditor Agreement;</li> <li>(iii) payment of (a) reasonable fees and expenses incurred by the First Lien Agent and (b) reasonable fees and expenses to the Second Lien Agent, subject to a cap of \$200,000 per calendar month, and in each case, subject to certain conditions;<sup>5</sup></li> </ul>	4

<sup>5</sup> The Interim Order provides that the Debtors will not be obligated to pay for fees or expenses of the Second Lien Agent if such invoices include fees and expenses related to, amongst other things, (a) litigation commenced by or

Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)	Location
<p>(iv) an estimate of cash receipts and cash disbursements for the following thirteen (13) weeks (the “<u>Initial Budget</u>”), to be updated from time to time with details consistent with the Initial Budget (the latest of such cash forecasts to be delivered to the Agents (or if no such updated cash forecast has been delivered to the Agents, the Initial Budget), the “<u>Budget</u>”); in addition, no later than the last business day of the second full week following the Petition Date and each week thereafter, the Debtors shall provide the Agents with a report, as of the preceding Saturday of each such week, comparing actual cash receipts and disbursements for such immediately preceding week (as well as cumulative to the Petition Date) to the estimated cash receipts and disbursements for such week or cumulative period reflected in the Budget (such reports, each a “<u>Weekly Cash Report</u>”). Further, the Debtors shall continue to provide reports to the First Lien Agent as required under Sections 8.1, 8.2.1, and 8.3.1 of the Senior Credit Agreement.</p> <p>(v) the Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral materially consistent with the coverage maintained prepetition; and</p> <p>(vi) As soon as practicable, the Debtors shall cash collateralize the Prepetition Letters of Credit by depositing funds in an amount equal to 103% of the face amount of the Prepetition Letters of Credit into a segregated account with the First Lien Agent on customary terms that are reasonably acceptable to the First Lien Agent (the “<u>L/C Cash Collateral</u>”). The First Lien Agent shall be authorized to draw upon such L/C Cash Collateral and apply the L/C Cash Collateral to the obligations under the First Lien Credit Facility if there is a corresponding draw upon the Prepetition Letters of Credit (and to pay letter of credit fees that come due in accordance with the Senior Credit Agreement), in either case, without the need for any further order of the Court</p>	

against a Prepetition Second Lien Secured Party (including any motions or other contested matters in which any Prepetition Second Lien Secured Party has filed an objection to relief sought by the Debtors unless such objection is sustained by a final order of the Court or another court of competent jurisdiction); or (b) any pleading, motion, complaint, declaration, objection, or other filing or act of a Prepetition Second Lien Secured Party (i) in furtherance of limiting the Debtors’ use of Cash Collateral (other than to enforce the terms of the Proposed Interim Order), (ii) that is otherwise materially inconsistent with the Proposed Interim Order, (iii) that is materially inconsistent with the Debtors’ implementation of their Chapter 11 Cases, including their disclosure statement, plan of reorganization, filings related to the Debtors’ exclusivity, the sale process, approvals of employee incentive or retention programs, or other material proceedings in these Chapter 11 Cases, or (iv) to appoint a chapter 11 trustee or examiner, or seeking to convert these Chapter 11 Cases or otherwise dismiss them. Neither the payment of Professional Fees, the Professional Fee Escrow, nor the Estate Professionals Carve Out Amount shall include payment for any fees and expenses, if any, incurred in connection with the initiation, joinder or prosecution of any action contesting the indebtedness owed to the Prepetition First Lien Lenders or the validity of any liens granted to any of such parties.

Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)	Location
	(including to modify the automatic stay).
<b>The Amount of Cash Collateral the Debtor Seeks Permission to Use</b> Local Rule 4001-2(a)(i)(A)	The Debtors shall be allowed to use all Cash Collateral.
<b>Fees</b> Local Rule 4001-2(a)(i)(B)	Reasonable and documented fees and expenses incurred by (i) the First Lien Agent and (ii) the Second Lien Agent, subject to a monthly cap of \$200,000, and, in each case, subject to certain other conditions as set forth in the Proposed Interim Order.
<b>Provisions that Limit the Court's Discretion</b> Local Rule 4001-2(a)(i)(C)	None
<b>Funding of Non-Debtor Affiliates With Cash Collateral</b> Local Rule 4001-2(a)(i)(D)	None
<b>Budget, Reporting, and Variance Covenants</b> Local Rule 4001-2(a)(i)(E)	Not later than the last business day of the first full four-week period following the Petition Date (and each four-week period thereafter), the Debtors shall provide the Agents with the Budget. In addition, not later than the last business day of the second full week following the Petition Date and each week thereafter, the Debtors shall provide the Agents with a Weekly Cash Report. Further, the Debtors shall continue to provide reports to the First Lien Agent as required under Sections 8.1, 8.2.1, and 8.3.1 of the Senior Credit Agreement.
<b>Carve-Out</b> Local Rule 4001-2(a)(i)(F)	<p><u>Carve-Out</u>: (i) fees owing to the United States Trustee incurred in connection with the Chapter 11 Case, (ii) fees and expenses of a chapter 7 trustee in an amount not to exceed \$25,000, (iii) professional fees, expenses and disbursements incurred by professional persons employed by the Debtors or any Committee (including any fees and expenses of the members of any Committee) ("<u>Professional Fees</u>") at any time prior to the Termination Date (the "<u>Pre-Trigger Carve-Out</u>") and (iv) Professional Fees incurred after the Termination Date in an amount not to exceed \$10,000,000 (the "<u>Post-Trigger Date Carve-Out</u>").</p> <p>The Debtors shall be authorized to transfer cash-on-hand from time to time in the amount equal to the total budgeted fees and expenses of the Estate Professionals to be incurred for the subsequent two-week period in the Budget (plus any true-up necessary for prior periods) into a segregated account not subject to the control of the Prepetition Secured Parties (the "<u>Professional Fee Escrow</u>"). The Debtors shall be authorized to use funds held in the Professional Fee Escrow to pay Professional Fees as they become allowed and payable pursuant to the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any interim or final orders of the Court.</p>

<b>Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)</b>		<b>Location</b>
	Upon the delivery of a Default Notice, the Debtors shall utilize all cash on hand, to transfer into the Professional Fee Escrow cash in an amount equal to all accrued but unpaid Allowed Professional Fees as of the first business day following delivery of the Default Notice plus an amount sufficient to ensure that the Professional Fee Escrow is equal to the Pre-Trigger Carve-Out and the Post-Trigger Date Carve-Out (collectively, the "Estate Professionals Carve Out Amount"). Funds in the Professional Fee Escrow shall be held in trust and available solely to pay Professional Fees.	
<b>Liens on Unencumbered Assets</b> Local Rule 4001-2(a)(i)(G)	As adequate protection, the Debtors shall grant first priority liens to the First Lien Agent and junior priority liens to the Second Lien Agent and replacement liens, as applicable, on the Post-Petition Collateral, subject only to Senior Permitted Liens and the Carve-Out, which Post-Petition Collateral shall include all property of the Debtors as of the Petition Date or acquired thereafter, including assets that were unencumbered as of the Petition Date, but excluding Avoidance Actions (as defined in the Proposed Interim Order).	4
<b>Milestones</b> Local Rule 4001-2(a)(i)(H)	None	N/A
<b>Prepayment Penalty</b> Local Rule 4001-2(a)(i)(I)	None	N/A
<b>Joint Liability</b> Local Rule 4001-2(a)(i)(J)	None	N/A
<b>Payment of Secured Parties' Fees Without Review</b> Local Rule 4001-2(a)(i)(K)	Fees and expenses incurred by (i) the First Lien Agent and (ii) the Second Lien Agent, subject to a monthly cap of \$200,000, and in each case, subject to certain conditions as set forth in the Proposed Interim Order.	4(g)
<b>Use of Estate Funds for Investigations</b> Local Rule 4001-2(a)(i)(L)	N/A	N/A
<b>Cross-Collateralization and Administrative Expense Status</b> Local Rule 4001-2(a)(i)(N)	The Proposed Interim Order does not provide for cross-collateralization, other than additional and replacement liens as adequate protection. The Interim Order provides for allowed senior and junior superpriority administrative expense claims (but subject to the Carve-Out) to the extent of any diminution in value of the respective interests of the Prepetition Secured Parties in the Pre-Petition Collateral.	4
<b>Roll Up</b> Local Rule 4001-2(a)(i)(O)	None	N/A
<b>Non-Consensual Priming Liens</b> Local Rule 4001-2(a)(i)(P)	None other than what is provided in the Carve-Out.	N/A
<b>Binding Effect of the</b>	None	N/A



<b>Summary of Material Terms and Significant Provisions Pursuant to Rule 4001 and Local Rule 4001-2(a)(i)</b>		<b>Location</b>
<b>Debtors' Stipulations on Third Parties</b> Local Rule 4001-2(a)(i)(Q)		
<b>Challenge Period</b> Bankr. R. 4001(C)(1)(B) Local Rule 4001-2(a)(i)(Q)	N/A— nothing in the Proposed Interim Order shall (a) constitute a finding or ruling by the Court that the Prepetition First Liens, Prepetition Second Liens, or Senior Permitted Liens are valid, binding, enforceable, prior, perfected, or non-avoidable or (b) prejudice the rights of any party in interest, including, but not limited to, the Debtors, the First Lien Agent, the Second Lien Agent, and any Creditors' Committee to challenge the validity, priority, enforceability, avoidability, perfection, or extent of any such liens.	9
<b>Provisions Approving All Terms of the Loan Agreement</b> Local Rule 4001-2(a)(i)(R)	None	N/A
<b>Waiver/Modification of Automatic Stay</b> Local Rule 4001-2(a)(i)(S)	The First Lien Agent shall be authorized to draw upon such L/C Cash Collateral and apply the L/C Cash Collateral to the obligations under the First Lien Credit Facility if there is a corresponding draw upon the Prepetition Letters of Credit (and to pay letter of credit fees that come due in accordance with the Senior Credit Agreement), in either case, without the need for any further order of the Court (including to modify the automatic stay).	4(h)
<b>Provisions Limiting Arguments</b> Local Rule 4001-2(a)(i)(T)	None	N/A
<b>Liens on Avoidance Actions</b> Local Rule 4001-2(a)(i)(U)	None	N/A
<b>Section 506(c) Waiver</b> Local Rule 4001-2(a)(i)(V)	Subject to the entry of the Final Order, effective as of the Petition Date, each Debtor waive irrevocably all claims and rights, if any, it or its estate might otherwise assert against the Prepetition Collateral of the Prepetition First Lien Lenders pursuant to Bankruptcy Code section 506(c).	7
<b>Section 552(b) Waiver</b> Local Rule 4001-2(a)(i)(W)	None	N/A
<b>Marshalling Waiver</b> Local Rule 4001-2(a)(i)(X)	None	N/A

**THE DEBTORS' PREPETITION INDEBTEDNESS**

10. Below is a summary of the Debtors' prepetition indebtedness impacted by the relief requested in this Motion.

11. As of the Petition Date, the Debtors have funded debt obligations in the aggregate principal amount of approximately \$199.1 million, consisting of (a) \$21.9 million in face amount of letters of credit issued under the First Lien Credit Facility (as defined below) and (b) \$177.2 million in principal amount of Second Lien Convertible Notes (as defined below).

**A. First Lien Credit Facility**

12. As of the Petition Date, other than the Prepetition Letters of Credit (as defined below), there is nothing outstanding under that certain Loan, Guaranty and Security Agreement dated as of May 8, 2019 (as amended, amended and restated, supplemented or otherwise modified, the "Senior Credit Agreement"), by and among Debtor Proterra Operating Company, Inc. (f/k/a Proterra Inc) ("OpCo"), the lenders from time to time party thereto (collectively, the "Prepetition First Lien Lenders"), the issuing bank party thereto (the "Issuing Bank"), and Bank of America, N.A. ("Bank of America"), as administrative agent (the "First Lien Agent" together with the Prepetition First Lien Lenders and the Issuing Bank, the "Prepetition First Lien Secured Parties"). The borrowing capacity of the First Lien Credit Facility is up to \$75.0 million, including the letter of credit sub-facility referred to below (collectively, the "First Lien Credit Facility"). In the absence of an Event of Default under and as defined in the Senior Credit Agreement, the Prepetition First Lien Lenders' loan commitments under the First Lien Credit Facility were available to OpCo on a revolving basis through the earlier of May 9, 2024 or 91 days prior to the stated maturity of any subordinated debt in the aggregate amount of \$7.5 million or more. The maximum availability under the First Lien Credit Facility is subject to a borrowing base based on

certain specified percentages of eligible accounts receivable and inventory, subject to certain reserves.

13. The First Lien Credit Facility includes a \$25.0 million letter of credit sub-line as of March 31, 2023. As of the Petition Date, no amounts are outstanding under the revolver, and there are approximately \$21.9 million in face amount of letters of credit issued under the First Lien Credit Agreement (collectively, the “Prepetition Letters of Credit”).

14. As security for OpCo’s obligations under the Senior Credit Agreement, OpCo granted to the Prepetition First Lien Lenders’ valid and perfected first priority liens and security interests (the “Prepetition First Priority Liens”) on substantially all of OpCo’s assets (the “Prepetition Collateral”), including OpCo’s cash, accounts receivable, and inventory, but excluding certain assets expressly excluded from “Collateral” under the Senior Credit Agreement, including fee-owned real property, leasehold interests in any real property and certain related assets.

**B. Second Lien Convertible Notes**

15. As of the Petition Date, there are approximately \$177.2 million of convertible notes issued by OpCo under a convertibles notes facility documented pursuant that certain Note Purchase Agreement (as amended, amended and restated, supplemented or otherwise modified, the “Note Purchase Agreement”) and with the Senior Credit Agreement, the “Loan Documents” and the notes issued thereunder, the “Second Lien Convertible Notes”), dated as of August 4, 2020, by and among OpCo, the investors from time to time party thereto (the “Second Lien Convertible Noteholders”), the guarantors from time to time party thereto and CSI GP I LLC, as collateral agent (the “Second Lien Agent” and collectively with the First Lien Agent, the “Agents”) (the Second Lien Agent and Second Lien Convertible Noteholders, together the “Prepetition Secured Second Lien Parties” and, together with the Prepetition First Lien Secured Parties, the “Prepetition

Secured Parties”). The Second Lien Convertible Notes bear interest of 12.0% per year, consisting of 5.0% in cash and 7.0% PIK. 98% of the Second Lien Convertible Notes are owned by the Cowen Parties.<sup>6</sup>

16. Each of the Second Lien Convertible Notes rank equally without preference or priority of any kind over one another. The Second Lien Convertible Notes are secured by the Prepetition Collateral, together with certain intellectual property assets.

17. In connection with the Note Purchase Agreement and the Second Lien Convertible Notes, the Debtors entered into that certain Security Agreement, dated as of August 4, 2020 (as amended, amended and restated, supplemented or otherwise modified, the “Security Agreement”) by and between Legacy Proterra, as a Grantor, and the Second Lien Agent, as Collateral Agent under the Note Purchase Agreement. Pursuant the Security Agreement, Opco granted a security interest (the “Prepetition Second Liens”) to the Second Lien Agent, as security for the Secured Obligations (as defined in the Security Agreement), in the Prepetition Collateral.

18. The Note Purchase Agreement provides for a premium that is triggered solely if a “Liquidation Event” (as defined in the Note Purchase Agreement and set forth below) occurs “at any time prior to the Maturity Date.” *See* Note Purchase Agreement § 2.2. If triggered, such premium is equal to the greater of (a) 50% of the principal balance of the Second Lien Convertible Notes or (b) the consideration that the holders would have received had the holders elected to convert the Second Lien Convertible Notes into common stock of HoldCo immediately prior to such liquidation event (the “Liquidation Premium”). If triggered and deemed enforceable, the

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<sup>6</sup> As used herein, “Cowen Parties” means CSI I Prodigy Holdco LP, CSI Prodigy Co-Investment LP, CSI GP I LLC, and CSI PRTA Co-Investment LP.

Liquidation Premium would total approximately \$88.6 million. The Note Purchase Agreement defines “Liquidation Event” as:

(a) the commencement of a voluntary or involuntary liquidation, dissolution or winding up of the Parent or the Company (provided that in the event of a voluntary liquidation, dissolution or winding up of the Parent or the Company, the Required Holders (as defined in the [Note] Purchase Agreement) have consented to the occurrence of such event), or (b) the consummation of a Deemed Liquidation Event.

A “Deemed Liquidation Event,” in turn, is defined as either certain types of merger or consolidation transactions or the sale or disposition of all or substantially all of the Debtors’ assets.<sup>7</sup>

19. It is the Debtors’ position, based on a plain reading of the Note Purchase Agreement, that the Liquidation Premium has not been triggered for at least three reasons.<sup>8</sup> First, while the Cowen Parties may argue that the commencement of these Chapter 11 Cases constituted a “Liquidation Event,” the plain language of the Note Purchase Agreement refutes any such argument. The Note Purchase Agreement separately defines (i) “Insolvency Proceeding,” which expressly includes the commencement of a case under the Bankruptcy Code and constitutes an Event of Default that triggers the automatic acceleration of the Second Lien Convertible Notes,

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<sup>7</sup> The Note Purchase Agreement defines “Deemed Liquidation Event” as:

(a) a merger or consolidation in which (i) the Parent is a constituent party or (ii) a subsidiary of the Parent is a constituent party and the Parent issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Parent or a subsidiary thereof in which the shares of capital stock of the Parent outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for equity securities that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the equity securities of (1) the surviving or resulting party or (2) if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such merger or consolidation, the parent of such surviving or resulting party; or (b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Parent or any subsidiary or subsidiaries of the Parent, of all or substantially all the assets of the Parent and its subsidiaries taken as a whole (or, if substantially all of the assets of the Parent and its subsidiaries taken as a whole are held by one or more subsidiaries, the sale or disposition (whether by consolidation, merger, conversion or otherwise) of such subsidiaries of the Parent), except where such sale, lease, transfer or other disposition is made to the Company or one or more wholly owned subsidiaries of the Company.

<sup>8</sup> There are other reasons why the Liquidation Premium is not applicable, such as it is an unenforceable penalty under state and federal law.

and (ii) “Liquidation Event,” which does not reference seeking “relief under the Bankruptcy Code” and does not constitute an Event of Default.

20. Second, even if the commencement of these Chapter 11 Cases constituted the type of “liquidation, dissolution or winding up” proceedings captured in the definition of “Liquidation Event” (and they do not), these Chapter 11 Cases still would not constitute a “Liquidation Event” because such proceedings only qualify as a “Liquidation Event” if the “Required Holders (as defined in the Purchase Agreement) have consented to the occurrence of such event.” Here, the Required Holders of the Second Lien Convertible Notes (i.e., the Cowen Parties) did not consent to the filing of these Chapter 11 Cases. Indeed, although the Debtors believe that, under the plain language of the Note Purchase Agreement, these Chapter 11 Cases constitute an “Insolvency Proceeding”—and not a “Liquidation Event”—the Debtors nonetheless did not preview the potential filing of these Chapter 11 Cases with the Cowen Parties to ensure that the Liquidation Premium could not be triggered. While the Debtors would have preferred to engage constructively with the Required Holders as they prepared to file these Chapter 11 Cases, the Debtors determined, in the exercise of their fiduciary obligations to all stakeholders, that avoiding any argument that the Liquidation Premium was triggered (for example, by the Required Holders “consenting” to the Chapter 11 Cases or the use of Cash Collateral) outweighed proactive engagement with the Required Holders prior to the filing.

21. Finally, no “Liquidation Event” had occurred prior to of the Petition Date (i.e., the Maturity Date). The Note Purchase Agreement provides that the commencement of an “Insolvency Proceeding”—defined as the commencement of a case “for relief under the Bankruptcy Code”—constitutes an Event of Default, and therefore the Second Lien Convertible Notes “shall automatically become immediately due and payable.” Note Purchase Agreement at § 8. And, the Note Purchase Agreement defines “Maturity Date” as “the earlier of (a) August 4,

2028, or (b) the time at which the Balance of this Note is due and payable upon an Event of Default.” Because the filing of these Chapter 11 Cases—an “Insolvency Proceeding”—immediately triggered a simultaneous Maturity Date, no Liquidation Event could have occurred *prior to* the Maturity Date. Notably, the occurrence of a “Liquidation Event” does *not* constitute either an Event of Default or the occurrence of the Maturity Date under the Notes Purchase Agreement. Because the Liquidation Premium is only triggered if a Liquidation Event occurs “prior to the Maturity Date” and the Maturity Date simultaneously occurred upon the filing of these Chapter 11 Cases, such premium was not triggered.

22. Notwithstanding the foregoing, the Court is not being asked to resolve any potential disputes regarding the Liquidation Premium in this Motion, and the Debtors reserve all rights with respect to such arguments, to the extent raised.<sup>9</sup>

### **C. The Intercreditor Agreement**

23. The Prepetition Secured Parties and other parties’ rights and remedies with respect to the collateral pledged under the Credit Facility and Note Purchase Agreement (collectively, the “Collateral” and the liens securing the Prepetition Secured Parties’ interests in the Collateral, the “Liens”) are set forth in that certain Intercreditor Agreement, dated as of August 4, 2020 (the “Intercreditor Agreement”), by and between the First Lien Agent and Second Lien Agent.

24. Pursuant to Section 6.2 of the Intercreditor Agreement to which the Debtors signed an acknowledgement, the Second Lien Agent is deemed to consent to the use of Cash Collateral by OpCo in an insolvency proceeding so long as (a) the First Lien Agent has consented and (b) the terms of use meets the following conditions (the “Second Lien Consent Conditions”): (A) the

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<sup>9</sup> Including, without limitation, that the Liquidation Premium is an unenforceable penalty under applicable state and federal law.

Second Lien Agent retains its liens with respect to the Prepetition Collateral that existed as of the Petition Date and postpetition proceeds thereof; (B) the proposed Cash Collateral use does not compel OpCo to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in the Cash Collateral order; and (C) the proposed Cash Collateral order does not expressly require the sale of all or substantially all of the Collateral prior to a default under the Cash Collateral order. The First Lien Agent has consented to the Debtors' use of Cash Collateral in accordance with the Proposed Interim Order, and thus the Second Lien Secured Parties are required to consent to (or are deemed to have consented to) such use of Cash Collateral pursuant to section 6.2 of the Intercreditor Agreement. Moreover, the forms of adequate protection being provided to the Second Lien Secured Parties are consistent with the requirements set forth in the Intercreditor Agreement.<sup>10</sup>

### **THE DEBTORS' LIQUIDITY NEEDS**

25. The Debtors require immediate access to liquidity to ensure that they are able to continue operating during these Chapter 11 Cases, preserve the value of their estates for the benefit of all stakeholders, and pursue a value-maximizing sale, recapitalization, or other restructuring transaction. *See* Pugh Decl. ¶ 16. Without immediate access to Cash Collateral, the Debtors would be forced to liquidate, which in turn would cause immediate and irreparable harm to the Debtors, their estates, and all stakeholders as the Debtors would be unable to preserve and maximize the going concern value the Debtors, including by: (a) making payroll; (b) satisfying vendor expenses

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<sup>10</sup> Section 6.5(a)(iii) of the Intercreditor Agreement provides that the Second Lien Secured Parties may seek and receive the following forms of adequate protection: (a) adequate protection in the form of an additional or replacement lien in and to existing or future assets of OpCo, which adequate protection liens shall be subordinate to any adequate protection liens granted to the First Lien Secured Parties; and (b) if the First Lien Secured Parties are granted adequate protection in the form of a superiority or other administrative expense claim, the Second Lien Agent can seek adequate protection in the form of a superpriority or other administrative expense claim . . . subordinate to the superpriority or other administrative expense claim of the First Lien Secured Parties.



incurred in the ordinary course of business, including certain payments that are essential for the ongoing operations of the Debtors' Business Lines; and (c) funding the administration of these Chapter 11 Cases. The ability to satisfy these expenses as and when due is essential to the Debtors' ability to continue operating in the ordinary course during the pendency of these Chapter 11 Cases and, consequently, maximize value through the asset disposition process described in the First Day Declaration.

26. As of the Petition Date, the Debtors estimate that they have approximately \$140 million of available cash on hand, all of which is subject to the security interests of the Prepetition Secured Parties and, thus, constitutes Cash Collateral. The Debtors have determined that their existing cash will be sufficient to continue operating their business and to pursue a value-maximizing sale, recapitalization, or other restructuring transaction for the benefit of all stakeholders during these Chapter 11 Cases. The Debtors believe that the relief requested in this Motion will save the Debtors significant interest expense and potential fees and costs that would be incurred if the Debtors had to secure traditional debtor-in-possession financing.

### **BASIS FOR RELIEF**

#### **A. The Debtors' Use of Cash Collateral is Necessary to Preserve the Debtors as a Going Concern through these Chapter 11 Cases**

27. Section 363 of the Bankruptcy Code governs the Debtors' use of property of their estates, including Cash Collateral.<sup>11</sup> Pursuant to section 363(c)(2) of the Bankruptcy Code, a

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<sup>11</sup> The Bankruptcy Code defines "cash collateral" as follows:

Cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties subject to a security interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title.

11 U.S.C. § 363(a).

debtor may use cash collateral as long as “(A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.” 11 U.S.C. § 363(c)(2).

28. Courts recognize a debtor’s immense need for cash collateral in order to preserve its business as a going concern. For example, one court noted a debtor “clearly has a compelling need to use ‘cash collateral’ in its efforts to rebuild. Without the availability of cash to meet daily operating expenses . . . the congressional policy favoring rehabilitation over economic failure would be frustrated.” *In re George Ruggiere Chrysler Plymouth, Inc.*, 727 F.2d 1017, 1019 (11th Cir. 1984); *see also In re Broadstripe, LLC*, 402 B.R. 646, 659 (Bankr. D. Del. 2009) (“The fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendant loss of jobs and possible misuse of economic resources.”) (quoting *N.L.R.B. v. Bildisco and Bildisco*, 465 U.S. 513, 528 (1984)).

29. Therefore, courts regularly authorize the use of cash collateral to preserve or enhance the debtor’s going concern value. *See, e.g., In re 495 Cent. Park Ave. Corp.*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992) (“[T]here is no question that the property would be improved by the proposed renovations and that an increase in value will result. In effect, a substitution occurs in that the money spent for improvements will be transferred into value. This value will serve as adequate protection for [the creditor’s] secured claim”); *In re Greenwood Bldg. Supply, Inc.*, 23 B.R. 720, 722 (Bankr. W.D. Mo. 1982) (“There is a presumption in favor of reorganization. Of course, if it is obvious that the debtor cannot reorganize or that it has wasted assets, the Court should reach a different conclusion. There is no such evidence here.”).

30. Here, it is essential to the Debtors’ preservation of going concern value that they have immediate access to sufficient funds to operate in the ordinary course. Absent the use of Cash Collateral, the Debtors will be forced to liquidate because they would not have sufficient

working capital to (a) make payments to employees, vendors, or suppliers, (b) satisfy operating costs, and (c) fund the administrative costs of these Chapter 11 Cases. The ability to satisfy the ordinary course operating expenses described above and in the Pugh Declaration as such expenses come due is essential to avoid immediate irreparable harm to the Debtors' estates and stakeholders. Indeed, absent immediate access to Cash Collateral, the Debtors will not have any cash on hand to pay these critical expenses.

**B. Interim Relief is Appropriate Because There is a Reasonable Likelihood That the Debtors Will Prevail at the Final Hearing in Demonstrating That the Prepetition Secured Parties' Interests Are Adequately Protected**

31. To the extent that the Second Lien Secured Parties are not deemed to have consented under Section 363(c)(2)(A), non-consensual use is nonetheless proper under Section 363(c)(2)(B). As set forth below, the Second Lien Parties' interests in Cash Collateral are adequately protected on several bases throughout the anticipated duration of these Chapter 11 Cases, including during the Interim Period before the Final Hearing. However, for the limited purpose of granting the Debtors interim authorization to use Cash Collateral, the Court only needs to determine that the Debtors have a "reasonable likelihood" of demonstrating adequate protection at the Final Hearing. Section 363(c)(3) provides, in relevant part, that:

"Any hearing under paragraph (2)(B) of this subsection may be a preliminary hearing or may be consolidated with a hearing under subsection (e) of this section, but shall be scheduled in accordance with the needs of the debtor. *If the hearing under paragraph (2)(B) of this subsection is a preliminary hearing, the court may authorize such use, sale, or lease only if there is a reasonable likelihood that the trustee will prevail at the final hearing under subsection (e) of this section.* The court shall act promptly on any request for authorization under paragraph (2)(B) of this subsection."

11 U.S.C. § 363(c)(3) (emphasis added).

32. Accordingly, entry of the Interim Order is proper if the Court concludes that the Debtors have a “reasonable likelihood” of demonstrating adequate protection of the Second Lien Parties’ interests in Cash Collateral at the Final Hearing. For the reasons that follow, there is more than a reasonable likelihood that the Debtors will prevail at the Final Hearing.

**C. The Prepetition Secured Parties’ Interests Are Adequately Protected**

33. When a party does not consent to the use of its cash collateral, “[t]he principal restraint on use of cash proceeds is found in § 363(e), which specifies that the court shall condition the use of secured property ‘as is necessary to provide adequate protection of such interest.’” *In re George Ruggiere Chrysler Plymouth, Inc.*, 727 at 1019 (quoting 11 U.S.C. § 363(e)). “Thus, when a creditor opposes a proposed use of cash collateral, the guiding inquiry is whether its security interests are ‘adequately protected’ absent the additional protection that the cash collateral would provide.” *Id.*

34. As explained in more detail below and in the Pugh Declaration, the Prepetition Secured Parties’ interests in the Prepetition Collateral (including Cash Collateral) will be adequately protected by: (a) a substantial equity cushion that exists, and will exist, throughout the pendency of these Chapter 11 Cases in the Prepetition Collateral and the Post-Petition Collateral (as defined in the Proposed Interim Order) over which the Prepetition Secured Parties will be granted adequate protection liens; (b) a projected substantial net increase in the Debtors’ cash position during the Interim Period; and (c) a substantial projected improvement of the Debtors’ cash position during these Chapter 11 Cases as compared to operating in the ordinary course outside bankruptcy. Furthermore, the Debtors’ Proposed Interim Order includes provisions providing the Prepetition Secured Parties with several other forms of adequate protection, including additional and replacement liens on Post-Petition Collateral and superpriority administrative claims, further protecting them from any diminution in value. Finally, as described further in the Kimm Declaration, the Debtors are prepared

at the outset of these Chapter 11 Cases to continue their prepetition marketing process by pursuing an efficient and value-maximizing Court-supervised sales process for their Business Lines which, the Debtors submit, will prevent unnecessary waste of collateral value during the pendency of these Chapter 11 Cases. The Debtors submit that these provisions are fair and reasonable under the circumstances and, taken as a whole together with the Prepetition Secured Parties' substantial equity cushion (as further discussed below) and the Debtors' projected cash flows, warrant granting the Debtors authority to use cash collateral pursuant to section 363(c)(2)(B) of the Bankruptcy Code on the terms set forth in the Proposed Interim Order.

**i. Substantial Equity Cushion**

35. What constitutes adequate protection is “decided on a case-by-case basis.” *In re Satcon Tech. Corp.*, No. 12-12869-KG, 2012 WL 6091160, at \*6 (Bankr. D. Del. 2012). “The focus of this requirement is to protect a secured creditor from diminution in the value of its interest in the particular collateral during the period of use by the debtor.” *Id.* (citing *In re Swedeland Dev. Group, Inc.*, 16 F.3d 552, 564 (3d Cir. 1994)). An equity cushion “provides adequate protection if it is sufficiently large to ensure that the secured creditor will be able to recover its entire debt from the security at the completion of the case.” *Id.* (quoting *In re Elmire Litho, Inc.*, 174 B.R. 892, 904 (Bankr. S.D.N.Y. 1994)); *see also In re JER/Jameson Mezz Borrower II, LLC*, 461 B.R. 293, 305 (Bankr. D. Del. 2011) (“[M]ost courts engage in an analysis of the property’s ‘equity cushion’—the value of the property after deducting the claim of the creditor seeking relief from the stay and all senior claims’ while ignoring junior liens[.]”) (quoting *In re Indian Palms Assocs., Ltd.*, 61 F.3d 197, 207 (3d Cir. 1995)).

36. “Case law has almost uniformly held that an equity cushion of 20% or more constitutes adequate protection.” *In re McKillips*, 81 B.R. 454, 458 (Bankr. N.D. Ill. 1987); *see also In re Satcon*, 2012 WL 6091160, at \*7 (“Lazard prepared a Valuation Analysis . . . . The Debtors

have prepared a liquidation analysis, which estimates the value basis of the Debtors' assets to be at least \$32 million . . . Both of these analyses demonstrate a significant equity cushion.”).

37. Here, as demonstrated by the Pugh Declaration, the Prepetition Secured Parties are adequately protected by a substantial equity cushion far in excess of 20% that exists, and will exist, throughout the pendency of these Chapter 11 Cases. As further set forth in the Pugh Declaration, the Debtors, in consultation with their financial advisor, FTI Consulting, Inc. (“FTI”), comprehensively analyzed the Debtors' anticipated cash receipts, operating disbursements, other material factors impacting the Debtors' go-forward cash position, and the liquidation value of current assets (*i.e.*, cash, inventory, and accounts receivable) to prepare (a) net cash flow projections, a copy of which is attached as an Exhibit to the Pugh Declaration (the “Cash Flow Projections”) and (b) an analysis of the liquidation value of the Debtors' cash, accounts receivable, and inventory, a copy of which is attached as an Exhibit to the Pugh Declaration (the “Liquidation Analysis”), in each case over the course of hypothetical six-month chapter 11 cases.

38. The Liquidation Analysis demonstrates that the liquidation value of the Debtors' cash, inventory, and accounts receivable alone greatly exceeds the amount of the Prepetition Secured Parties' prepetition secured claims, together with any diminution in value claims that may arise throughout the pendency of the Chapter 11 Cases, with the liquidation value of such Prepetition Collateral exceeding the amount of the Prepetition Secured Parties' claims by no less than approximately 72% to 88% at the end of August 2023 and by no less than approximately 42% to 55% by the end of January 2024—a substantial equity cushion. Pugh Decl. ¶ 11.

39. This equity cushion, measured in the Liquidation Analysis as a percentage equal to the Prepetition Secured Parties' outstanding claims divided by the estimated liquidation value of the Debtors' cash, inventory, and accounts receivable (*i.e.*, a subset of the Prepetition Secured Parties' overall collateral), is projected to at all times to exceed the equity cushions that courts have held in

other cases to adequately protect a secured creditors' interests. *See, e.g., In re 1606 New Hampshire Ave. Assocs.*, 85 B.R. 298, 310 (Bankr E.D. Pa. 1988) (holding that "an equity cushion of approximately twenty (20%) percent" was evidence of adequate protection and citing case law for the proposition that "an equity cushion of twenty (20%) percent is generally found to constitute adequate protection *per se*") (quoting *In re McKillips*, 81 B.R. at 458); *In re Grant Broad. of Philadelphia, Inc.*, 71 B.R. 376, 386 (Bankr. E.D. Pa. 1987), *aff'd* 75 B.R. 819 (E.D. Pa. 1987) (holding an equity cushion of 27.5% of the secured parties' interests was a "substantial equity cushion" and provided adequate protection); *Matter of Melson*, 44 B.R. 454, 456–57 (Bankr. D. Del. 1984) (holding an equity cushion of \$60,000 with the value of liens of \$240,000 as adequate). Importantly, this analysis currently includes only the Debtors' current assets (*i.e.*, cash, inventory and accounts receivable). The Liquidation Analysis does not take into consideration other significant sources of collateral value pledged to the Prepetition Secured Lenders, including real estate, IP, equipment, furnishing, fixtures, and other collateral. Moreover, the Liquidation Analysis—and therefore the Debtors' calculation of the equity cushion—does not ascribe any value to the Debtors as a going concern. Thus, the Debtors expect that the equity cushion is actually much higher than set forth in the Pugh Declaration, and the sale process described in the Bidding Procedures Motion<sup>12</sup> will ensure that all material value is realized through these proceedings.

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<sup>12</sup> *Debtors' Motion for Entry of: (I) An Order (A) Approving Bidding Procedures to Govern the Sale of All or Substantially All of the Debtors' Assets Pursuant to Section 363 of the Bankruptcy Code, (B) Approving Procedures Regarding Entry Into One or More Stalking Horse Agreements, (C) Establishing Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (D) Approving the Form and Manner of the Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases, (E) Scheduling Auctions for the Sales of the Company Assets and Hearings to Consider Approval of the Sales and Approving the Form and Manner of the Notice Thereof, (F) Approving Certain Wind-Down Procedures, and (G) Granting Related Relief; and (II) an Order (A) Authorizing and Approving the Debtors' Entry Into One or More Asset Purchase Agreements, (B) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of Liens, (C) Approving the Assumption and Assignment of the Assumed Executory Contracts and Unexpired Leases, and (D) Granting Related Relief (the "Bidding Procedures Motion")* filed contemporaneously herewith.

**ii. Projected Cash Flows**

40. As further evidence that the Prepetition Secured Parties' interests in Cash Collateral are adequately protected, the Cash Flow Projections demonstrate that the Debtors' cash position substantially increases from the Petition Date (approximately \$138 million) to the end of August 2023 (approximately \$147 million)—the approximate length of the Debtors' requested Interim Period. Pugh Decl. ¶ 13. In other words, the Debtors believe that there will be no diminution in the value of the Cash Collateral during the Interim Period.

41. The Cash Flow Projections also reflect that the filing of these Chapter 11 Cases, and the imposition of the automatic stay, *enhances* the cash position of the Debtors as compared to the out-of-court status quo throughout the pendency of a hypothetical six-month case. During the first four weeks of the case, the Debtors anticipate building approximately \$9.5 million in cash, whereas the Debtors would lose approximately \$65.8 million in cash operating under the status quo out of court; thus, the Debtors submit that the filing of these Chapter 11 Cases results in a net cash gain of approximately \$75.3 million over the first four weeks of these proceedings. *Id.* at ¶ 9. During the pendency of a projected six-month case, the difference in cash saved in bankruptcy reaches approximately \$112.9 million. *Id.* at Ex. B. This enhancement of the Debtors' cash position reflects the many tools provided by the Bankruptcy Code to facilitate the restructuring of distressed debtors, including the breathing spell provided by the automatic stay and the Debtors' ability to reject burdensome contracts, optimize their use of inventory, and rationalize their operations. *Id.* at ¶ 14.

42. The Debtors are prepared to run an efficient and value maximizing chapter 11 process. As discussed in the Joyce Declaration, the Debtors filed these Chapter 11 Cases after receiving feedback during a prepetition marketing process that, despite interest in the Debtors' Business Lines, a sale or financing transaction was likely infeasible without the tools and protections provided by the Bankruptcy Code. Joyce Decl. ¶ 59. Commencing on the Petition Date, the Debtors



are prepared to launch an efficient and value-maximizing marketing process for their Business Lines. In fact, the Debtors have contemporaneously filed their Bidding Procedures Motion seeking the Court' approval of bidding procedures for bids on a sale, recapitalization, or other reorganization of all or any portion of the Debtors' assets. The proposed bidding procedures are designed to maximize the value of the Debtors' estates in an efficient manner and mitigate against unnecessary waste of collateral value during the pendency of these Chapter 11 Cases. Kimm Decl.¶ 15. While the Debtors believe that the proposed bidding process will result in an actionable transaction that further enhances the Debtors' cash position and the Prepetition Secured Parties' equity cushion, the Debtors have conservatively excluded any expected proceeds from such a potential transaction from the Cash Flow Projections and Liquidity Analysis. Any such transaction would further enhance the Prepetition Secured Parties' interest in the collateral.

**iii. Additional Protection Provided by the Debtors' Proposed Interim Order**

43. In addition to the adequate protection provided by the Prepetition Secured Parties' substantial equity cushion and the Debtors' projected increased cash flows, the Proposed Interim Order includes the following provisions (as set forth in more detail in the Proposed Interim Order), further protecting the Prepetition Secured Parties from any diminution in value:

- a. **Adequate Protection Liens:** (i) Senior Adequate Protection Liens, junior only to the Prepetition First Liens, Senior Permitted Liens (as defined in the Interim Order) and the Carve-Out and (ii) Junior Adequate Protection Liens junior only to the Prepetition First Liens, Senior Adequate Protections Liens, Prepetition Second Liens, Senior Permitted Liens and the Carve-Out.
- b. **Adequate Protection Superpriority Claims:** Allowed Senior Adequate Protection Superpriority Claims and Junior Adequate Protection Superpriority Claims pursuant to sections 503(b) and 507(b) of the Bankruptcy Code. The Senior Adequate Protection Superpriority Claim will not be junior to any administrative claims (other than the Carve-Out). The Junior Adequate Protection Superpriority Claim will be junior to the Senior Adequate Protection Superpriority Claim and the Carve-Out, and shall otherwise be subject to the Intercreditor Agreement.

- c. **Payment of Fees and Expenses:** Payment of (a) fees and expenses incurred by the First Lien Agent and (b) fees and expenses to the Second Lien Agent, subject to a \$200,000 per month cap, and in each case, subject to certain conditions as set forth in the Interim Order.
- d. **Reporting:** The Debtors have provided the Agents with a copy of the Initial Budget. Not later than the last business day of the first full four-week period following the Petition Date (and each four-week period thereafter), the Debtors shall provide the Agents with the Debtors' estimate of cash receipts and cash disbursements for the following thirteen (13) weeks, with detail consistent with the Initial Budget. In addition, not later than the last business day of the second full week following the Petition Date and each week thereafter, the Debtors shall provide the Agents with a report, as of the preceding Saturday of each such week, comparing actual cash receipts and disbursements for such immediately preceding week (as well as cumulative to the Petition Date) to the estimated cash receipts and disbursements for such week or cumulative period reflected in the latest Budget (such reports, each a "Weekly Cash Report"). Further, the Debtors shall continue to provide reports to the First Lien Agent (with copies to the Second Lien Agent) as required under Sections 8.1, 8.2.1, and 8.3.1 of the Senior Credit Agreement.
- e. **Insurance:** Maintenance of casualty and loss insurance coverage for the Prepetition Collateral materially consistent with the coverage maintained prepetition.

44. **L/C Collateralization & Replacement:** As soon as practicable, the Debtors shall cash collateralize the Prepetition Letters of Credit by depositing funds in an amount equal to 103% of the face amount of the Prepetition Letters of Credit into a segregated account with the First Lien Agent on customary terms that are reasonably acceptable to the First Lien Agent (the "L/C Cash Collateral"). The First Lien Agent shall be authorized to draw upon such L/C Cash Collateral and apply the L/C Cash Collateral to the obligations under the First Lien Credit Facility if there is a corresponding draw upon the Prepetition Letters of Credit (and to pay letter of credit fees that come due in accordance with the Senior Credit Agreement), in either case, without the need for any further order of this Court (including to modify the automatic stay).

45. While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *In re Swedeland Dev. Grp., Inc.*,

16 F.3d at 564 (“[A] determination of whether there is adequate protection is made on a case by case basis.”); *In re Columbia Gas Sys., Inc.*, 91-803, 91-804, 1992 WL 79323, at \*2 (Bankr. D. Del. Feb. 18, 1992).

46. The Debtors respectfully submit that the provisions of the Proposed Interim Order are fair and reasonable under the circumstances and, taken as a whole together with the Prepetition Secured Parties’ substantial equity cushion in the Prepetition Collateral, together with the adequate protection liens on the Post-Petition Collateral, and the Debtors’ projected cash flows, including the fact that the Debtors’ Cash Flow Projections show no diminution in the value of the Cash Collateral during the Interim Period, warrant granting the Debtors authority to use cash collateral pursuant to section 363(c)(2)(B) of the Bankruptcy Code.

**D. The Scope of the Carve-Out is Appropriate**

47. The Cash Collateral Orders provide that the Adequate Protection Liens, among other liens and claims, shall be subject to the Carve-Out. Carve-outs for professional fees under the terms of an agreement to use cash collateral have been found to be reasonable and necessary to ensure that a debtor’s estate and any statutory committee can retain assistance from their professionals during chapter 11 cases, including following an event of default. *See In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 39 (Bankr. S.D.N.Y. 1990); *see also In Residential Capital, LLC*, 501 B.R. 549, 621 (Bankr. S.D.N.Y. 2013) (“A carve out is a provision of a cash collateral order that allows for some expenditure of administrative and/or professional fees to be paid before a secured creditor gets paid on its collateral.” (citing *In re Blackwood Assocs., L.P.*, 153 F.3d 61, 68 (2d Cir. 1998))).

**E. Significant Provisions Are Appropriate**

48. Local Rule 4001-2(a)(i) requires a debtor to justify the inclusion of certain provisions enumerated in Local Rule 4001-2(a)(i)(N) through (X) (collectively, the “Significant

Provisions”) in a proposed cash collateral order. The Debtors believe that each Significant Provision included in the Cash Collateral Orders is justified and necessary in the context and circumstances of these Chapter 11 Cases for the reasons outlined below.

**F. The Automatic Stay Should Be Modified on a Limited Basis**

49. The relief requested herein contemplates a modification of the automatic stay to permit the Debtors to, among other things, grant the security interests and liens described above to the Prepetition Secured Parties, perform such acts as may be requested to assure the perfection and priority of such security interests and liens, incur all liabilities and obligations to the Prepetition Secured Parties under the Cash Collateral Orders, and make payments in accordance with the terms of the Cash Collateral Orders. The Cash Collateral Orders also modify the automatic stay to permit the First Lien Agent to apply Cash Collateral securing any of the Prepetition Letters of Credit following a draw thereof in satisfaction of the Debtors’ reimbursement obligations without further order of the Court.

**G. Failure to Obtain the Immediate Interim Use of Cash Collateral Would Cause Immediate and Irreparable Harm**

50. Bankruptcy Rule 4001(b) provides that a final hearing on a motion to use cash collateral pursuant to section 363 of the Bankruptcy Code may not be commenced earlier than fourteen (14) days after the service of such motion. However, the Court is authorized to conduct a preliminary expedited hearing on this Motion and authorize the Debtors’ proposed use of Cash Collateral to the extent necessary to avoid immediate and irreparable harm to the Debtors’ estates. *See Fed. R. Bankr. P. 4001(b)(2).*

51. As demonstrated by the First Day Declaration and the Pugh Declaration, the Debtors have an immediate postpetition need to use Cash Collateral. The Debtors cannot maintain the value of their estates during the pendency of these Chapter 11 Cases without access to cash.

The Debtors will use cash to, among other things, continue to operate their business in the ordinary course, procure parts and inventory from vendors, satisfy other working capital needs during these Chapter 11 Cases, including the payment of administrative expenses, and negotiation and implementation of a value-maximizing sale or restructuring transaction. The Debtors believe that substantially all of their available cash constitutes the Prepetition Secured Parties' Cash Collateral. The Debtors will therefore be unable to proceed with a proposed restructuring or sale process, operate their business in the near term, or otherwise fund these Chapter 11 Cases without access to Cash Collateral, and will suffer immediate and irreparable harm to the detriment of all creditors and other parties in interest in the event the relief requested herein is denied.

52. As described above, FTI, with the assistance of the Debtors, put together the Cash Flow Projections, which detail the Debtors' projected weekly cash inflows and disbursements. The Cash Flow Projections and the Initial Budget demonstrate the Prepetition Secured Parties' Cash Collateral will be adequately protected during the pendency of the Interim Period and that the relief sought in the Proposed Interim Order was narrow in scope.

53. The Debtors, therefore, seek immediate authority to use the Cash Collateral on an interim basis and as set forth in this Motion and in the Proposed Interim Order to prevent immediate and irreparable harm to their estates pending the Final Hearing pursuant to Bankruptcy Rule 4001(b). Accordingly, the Debtors respectfully submit that they have satisfied the requirements of Bankruptcy Rule 4001 to support an expedited preliminary hearing and immediate Cash Collateral availability on an interim basis.

#### **H. Processing of Checks and Electronic Funds Transfers Should Be Authorized**

54. In connection with the foregoing, the Debtors respectfully request that the Court (a) authorize the Debtors' banks and other financial institutions (the "Banks") to receive, process, honor, and pay all checks and transfers issued by the Debtors in accordance with this Motion,

without regard to whether any checks or transfers were issued before or after the Petition Date; (b) provide that all Banks may rely on the Debtors' representations with respect to whether any check or transfer issued or made by the Debtors before the Petition Date should be honored pursuant to this Motion (such banks and other financial institutions having no liability to any party for relying on such representations by the Debtors provided for herein); and (c) authorize the Debtors to issue replacement checks or transfers to the extent any checks or transfers that are issued and authorized to be paid in accordance with this Motion are dishonored or rejected by the Banks.

**WAIVER OF BANKRUPTCY RULE 4001(A)(3)**

55. The Debtors request a waiver of the stay of the effectiveness of the order approving this Motion under Bankruptcy Rule 4001(a)(3). Bankruptcy Rule 4001(a)(3) provides that “[an] order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 4001(a)(3). As explained herein, access to Cash Collateral is essential to prevent irreparable damage to the Debtors' estates. Accordingly, the Debtors submit that ample cause exists to justify the waiver of the fourteen-day stay imposed by Bankruptcy Rule 4001(a)(3), to the extent such stay applies.

**IMMEDIATE RELIEF IS NECESSARY**

56. Bankruptcy Rule 6003 provides that the relief requested in this Motion on an interim basis may be granted if the “relief is necessary to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003. As described above, any disruption of the Debtors' use of Cash Collateral would substantially diminish or impair the Debtors' efforts in these Chapter 11 Cases to preserve and maximize the value of their estates. For this reason and the others set forth above and in the First Day Declaration and Pugh Declaration, the Debtors respectfully submit that Bankruptcy Rule

6003(b) has been satisfied and because the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates.

**WAIVER OF BANKRUPTCY RULE 6004(h)**

57. Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As provided herein, and to implement the foregoing successfully, the Debtors request that the Proposed Interim Order include a finding that the Debtors have established cause to exclude such relief from the fourteen (14)-day stay period under Bankruptcy Rule 6004(h).

**RESERVATION OF RIGHTS**

58. Nothing contained herein or any actions taken pursuant to such relief requested is intended to be or should be construed as: (a) an implication or admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors’ estates; (g) a waiver or limitation of the Debtors’, or any other party in interest’s, rights under the Bankruptcy Code or any other applicable law; (h) a waiver of the obligation of any party in interest to file a proof of claim; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise)

that may be satisfied pursuant to the relief requested in this Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

**NOTICE**

59. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the United States Attorney's Office for the District of Delaware; (d) the Internal Revenue Service; (e) the state attorneys general for states in which the Debtors conduct business; (f) the Securities and Exchange Commission; (g) counsel to the Second Lien Agent; (h) counsel to the First Lien Agent, Bank of America (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

*[Remainder of page intentionally left blank]*



WHEREFORE, the Debtors respectfully request that the Court approve this Motion on both an interim and final basis on the terms set forth in the Cash Collateral Orders and to grant such other relief as the Court deems appropriate under the circumstances.

Dated: August 9, 2023  
Wilmington, Delaware

Respectfully submitted,

**YOUNG CONAWAY STARGATT &  
TAYLOR, LLP**

/s/ Andrew L. Magaziner

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- and -

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*Proposed Counsel to the Debtors and  
Debtors in Possession*

**EXHIBIT A**

**Proposed Interim Order**

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

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In re:	)	
	)	Chapter 11
	)	
PROTERRA INC, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-11120 (BLS)
	)	
Debtors.	)	(Jointly Administered)
	)	

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**Ref. Docket No. \_\_**

**INTERIM ORDER (I) AUTHORIZING  
THE DEBTORS TO USE CASH COLLATERAL,  
(II) GRANTING ADEQUATE PROTECTION (III) MODIFYING  
THE AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF**

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Upon the motion (the “Motion”) of the above-captioned debtors and debtors-in-possession (together, the “Debtors”)<sup>2</sup> seeking entry of an interim order (this “Interim Order”) and a final order, pursuant to sections 105, 361, 362, 363 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the “Bankruptcy Code”), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), and Rule 4001-2 of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) providing for:

(a) authorization for the Debtors to (1) use “cash collateral” (as such term is defined in section 363(a) of the Bankruptcy Code) pursuant to section 363 of the Bankruptcy Code (the “Cash Collateral”) and (2) provide adequate protection to the Prepetition Secured Parties (as defined below) with respect to the diminution in value, if any, of the interest of the

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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 as follows: Protterra Inc (1379); and Protterra Operating Company, Inc. (8459). The location of the Debtors’ service address is: 1815 Rollins Road, Burlingame, California 94010.

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

First Lien Agent and Second Lien Agent (as defined below) in the Prepetition Collateral (as defined below), including Cash Collateral, on the terms described herein;

(b) scheduling, pursuant to Bankruptcy Rule 4001, a final hearing (the “Final Hearing”) for this Court to consider the relief requested in the Motion on a final basis;

(c) modifying the automatic stay arising under section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order; and

(d) granting related relief.

The Interim Hearing having been held by this Court on August \_\_\_\_\_, 2023, and upon the record made by the Debtors at the Interim Hearing, including without limitation, the admission into evidence of (i) the *Declaration of Gareth T. Joyce in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”) filed on the date hereof (the “Petition Date”), (ii) the *Declaration of Justin D. Pugh in Support of Debtors’ (I) Cash Collateral Motion and (II) Vendor Claimants’ Motion* (the “Pugh Declaration”), and (iii) *Declaration of John Kimm in Support of the Debtors’ Motion for Entry of: (I) an Order (A) Approving Bidding Procedures to Govern the Sale of All or Substantially All of the Debtors’ Assets Pursuant to Section 363 of the Bankruptcy Code, (B) Approving Procedures Regarding Entry into One or More Stalking Horse Agreements (C) Establishing Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (D) Approving the Form and Manner of the Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases, (E) Schedule Auctions of for the Sales of the Company Assets and Hearings to Consider Approval of the Sales and Approving the Form and Manner of the Notice Thereof, (F) Approving Certain Wind-Down Procedures, and (G) Granting Related Relief; and (II) An*

*Order (A) Authorizing and Approving the Debtors' Entry into One or More Asset Purchase Agreements, (B) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of Liens, (C) Approving the Assumption and Assignment of the Assumed Executory Contracts and Unexpired Leases, and (D) Granting Related Relief (the "Kim Declaration")*; and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001 and 9014; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved, or overruled by the Court; and it appearing to the Court that granting the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, and this Court having found that authorization to use Cash Collateral as provided herein and the other terms of this Interim Order are otherwise fair and reasonable, in the best interests of the Debtors and their estates and essential for the continuation of the Debtors' business; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

**BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

A. Jurisdiction and Venue. This Court has jurisdiction over the Chapter 11 Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the "Amended Standing Order"). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. Petition Date. On August 7, 2023, each of the Debtors filed a voluntary petition with this Court commencing cases under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"). The Debtors continue to operate their business and manage their property as debtors in

possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner in these Chapter 11 Cases.

C. Notice. Notice of the Motion and the Interim Hearing has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the United States Attorney's Office for the District of Delaware; (d) the Internal Revenue Service; (e) the state attorneys general for states in which the Debtors conduct business; (f) the Securities and Exchange Commission; (g) counsel to the Second Lien Agent; (h) counsel to First Lien Agent; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. Under the circumstances, notice of the Motion, as it relates to this Order, is sufficient under the Bankruptcy Code and the Bankruptcy Rules, including, without limitation, sections 102(1) and 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014.

D. Cash Collateral. The Debtors require the use of Cash Collateral to operate their business and pay certain obligations.

E. Committee Formation. Neither an official committee of unsecured creditors (the "Creditors' Committee") nor any other official committee (each, a "Committee") has been appointed in these Chapter 11 Cases.

F. Debtor's Representations. The Debtors represent as follows:

(a) First Lien Credit Facility. As more fully described in the First Day Declaration and the Motion, on May 8, 2019, Debtor Proterra Operating Company, Inc. (f/k/a Proterra Inc) ("OpCo") entered into that certain Loan, Guaranty and Security Agreement (as amended, amended and restated, supplemented or otherwise modified, the "Senior Credit Agreement"), by and among OpCo, the lenders from time to time thereto (collectively, the

“Prepetition First Lien Lenders”), the issuing bank(s) party thereto (the “Issuing Bank”), and Bank of America, N.A. (“Bank of America”), as administrative agent (the “First Lien Agent” and, together with the Prepetition First Lien Lenders and the Issuing Bank, the “Prepetition First Lien Secured Parties”), which provides for a revolving credit facility in the maximum principal amount of \$75.0 million, including a \$25.0 million letter of credit (the “First Lien Credit Facility”). As of the Petition Date, no amounts were outstanding under the First Lien Credit Facility, other than approximately \$21.9 million in face amount of issued and outstanding letters of credit (collectively, the “Prepetition Letters of Credit”). As security for OpCo’s obligations under, and pursuant to the terms of, the Senior Credit Agreement, OpCo granted to the First Lien Agent for the benefit of the Prepetition First Lien Secured Parties valid and perfected first priority liens and security interests (the “Prepetition First Priority Liens”) on substantially all of OpCo’s assets (the “Prepetition Collateral”), including OpCo’s cash, accounts receivable, and inventory, but excluding certain assets expressly excluded from “Collateral” under the terms of the Senior Credit Agreement, including fee-owned real property, any leasehold interests in real property and certain related assets and improvements thereon.

(b) Second Lien Convertible Notes. On August 4, 2020, OpCo entered into that certain Note Purchase Agreement (as amended, amended and restated, supplemented or otherwise modified, the “Note Purchase Agreement”) by and among OpCo, the investors from time to time party thereto (the “Second Lien Convertible Noteholders” and collectively with the Second Lien Agent (as defined below), the “Prepetition Second Lien Secured Parties”), together with the Prepetition First Lien Secured Parties, the “Prepetition Secured Parties”), the guarantors, if any, from time to time party thereto and CSI GP I LLC, as collateral agent (the “Second Lien Agent,” together with the First Lien Agent, the “Agents”). As of the Petition Date, there are

approximately \$175.9 million in principal amount of convertible notes (the “Second Lien Convertible Notes”) outstanding under the Note Purchase Agreement.

(c) Second Lien Security Agreement. In connection with the Note Purchase Agreement and to secure its obligations under the Second Lien Convertible Notes, OpCo entered into that certain Security Agreement, dated as of August 4, 2020 (as amended, amended and restated, supplemented or otherwise modified, the “Second Lien Security Agreement”) by and between OpCo, as Grantor, and the Second Lien Agent, as Collateral Agent under the Note Purchase Agreement. In accordance with the Second Lien Security Agreement, OpCo granted valid and perfected second priority liens and security interests (the “Prepetition Second Liens”) to the Second Lien Agent, as security for the Secured Obligations (as defined in the Second Lien), in the Prepetition Collateral, together with certain intellectual property assets.

(d) Intercreditor Agreement. The First Lien Agent and the Second Lien Agent (collectively, the “Agents”) are parties to that certain Intercreditor Agreement, dated as of August 4, 2020 (as amended, amended and restated, supplemented or otherwise modified, the “Intercreditor Agreement”), which governs the respective rights and remedies of the First Lien Agent and the Second Lien Agent with respect to the Prepetition Collateral.

G. Relief Requested. By the Motion, the Debtors requested authority to use Cash Collateral through the Termination Date (as defined below) on the terms and conditions set forth herein.

H. Necessity for Relief Requested; Immediate and Irreparable Harm. The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2). The Debtors’ access to sufficient liquidity through the use of Cash Collateral is critical to their ability to operate their business, maximize the value of their estates, and facilitate a successful



reorganization, the absence of which would result in immediate and irreparable harm to the Debtors, their estates, and their creditors. Without the use of Cash Collateral, the Debtors would not have sufficient available sources of working capital to pay payroll and other operating expenses, maintain their assets, administer the Chapter 11 Cases or proceed with their reorganization or sale efforts, to the severe detriment of their estates and creditors. Accordingly, the relief requested in the Motion is necessary, essential, and appropriate to avoid immediate and irreparable harm to the Debtors and for the continued operation of Debtors' business and the management and preservation of their assets.

I. Good Cause. Good cause has been shown for entry of this Interim Order, and the entry of this Interim Order is in the best interests of the Debtors and their estates and creditors. Among other things, the relief granted herein will minimize disruption of the Debtors' business and permit the Debtors to meet payroll and other expenses necessary to continue operations. The terms of the Debtors' use of Cash Collateral and proposed adequate protection arrangements, as set forth in this Interim Order, are fair and reasonable under the circumstances, and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

**BASED UPON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. Approval of Motion. The relief requested in the Motion is granted on an interim basis as set forth herein. Except as otherwise expressly provided in this Interim Order, any objection to the entry of this Interim Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits, but without prejudice to relief that may be granted on a final basis.

2. Authorization to Use Cash Collateral. Pursuant to the terms and conditions of this Interim Order, the Debtors are authorized to use Cash Collateral for the period (the “Specified Period”) from the Petition Date through the Termination Date (as defined below).

3. Termination Date. The Debtors’ authorization to use Cash Collateral (other than to fund the Carve-Out as provided below) pursuant to this Interim Order shall terminate upon the earliest to occur of (the “Termination Date”): (i) thirty-five (35) days after entry of this Interim Order, *provided* that if a final order is entered prior thereto, the Debtors’ authorization to use Cash Collateral shall continue as provided for therein; and (ii) the occurrence and continuance of an Event of Default (as defined below) beyond the Cure Period (as defined below).

4. Adequate Protection.

(a) Senior Adequate Protection Liens. Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection for any postpetition diminution in value of the First Lien Agent’s interest (solely to the extent that such interests are valid, binding, enforceable, non-avoidable, and perfected as of the Petition Date) in the Prepetition Collateral (including the Cash Collateral) to the fullest extent provided for in the Bankruptcy Code (the “First Lien Diminution in Value”), the First Lien Agent for the benefit of the Prepetition First Lien Secured Parties is hereby granted additional and replacement liens (the “Senior Adequate Protection Liens”) on any and all presently owned and hereafter acquired personal property, real property, and all other assets of the Debtors, together with any proceeds thereof (collectively, the “Post-Petition Collateral”), having the priority set forth in paragraph 4(c) below. Notwithstanding the foregoing, the Post-Petition Collateral shall not include any causes of action under chapter 5 of the Bankruptcy Code or the proceeds thereof (collectively, “Avoidance Actions”).

(b) Junior Adequate Protection Liens. Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection for any postpetition diminution in value of the Second Lien Agent's interests (solely to the extent that such interests are valid, binding, enforceable, non-avoidable, and perfected as of the Petition Date) in the Prepetition Collateral (including the Cash Collateral) to the fullest extent permitted by the Bankruptcy Code (the "Second Lien Diminution in Value"), the Second Lien Agent for the benefit of the Prepetition Second Lien Secured Parties is hereby granted additional and replacement liens (the "Junior Adequate Protection Liens," and collectively with the Senior Adequate Protection Liens, the "Adequate Protection Liens") on the Post-Petition Collateral, having the priority set forth in paragraph 4(c) below.

(c) Priority of Adequate Protection Liens.

(i) The Senior Adequate Protection Liens on the Post-Petition Collateral shall be junior only to the (A) Prepetition First Liens, (B) Permitted Liens (as defined in the Senior Credit Agreement) which are perfected as of the Petition Date and senior in priority to the Prepetition Liens (the "Senior Permitted Liens") and (C) the Carve-Out (as defined below). Subject to the Intercreditor Agreement, the Senior Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the Post-Petition Collateral.

(ii) Subject to the Intercreditor Agreement, the Junior Adequate Protection Liens on the Post-Petition Collateral shall be junior only to the (A) Prepetition First Liens, (B) Senior Adequate Protection Liens, (C) Prepetition Second Liens, (D) Senior Permitted Liens which are senior in priority to the Prepetition Second Liens and (E) the Carve-Out. The

Junior Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, and claims against any of the Post-Petition Collateral.

(iii) The Adequate Protection Liens shall be automatically perfected, valid, and enforceable against and binding upon the Debtors, their estates, and any successors thereto, and the parties shall not be required to enter into any additional security agreements to create, memorialize, and/or perfect any such liens, or to file financing statements, mortgages, or other instruments with any other filing authority or take any other action to perfect any such Adequate Protection Liens. If, however, the First Lien Agent or Second Lien Agent, in their sole and absolute discretion shall elect for any reason to enter into, file, record or serve any such financing statements or other documents with respect to any such Adequate Protection Liens, then the Debtors shall execute same upon request and the filing, recording or service thereof (as the case may be) shall be deemed to have been made at the time and on the date of the docket entry of this Interim Order.

(d) Adequate Protection Superpriority Claims.

(i) Senior Adequate Protection Superpriority Claim. To the extent the Senior Adequate Protection Liens are insufficient, as further adequate protection, the First Lien Agent for the benefit of the First Lien Secured Parties is hereby granted, to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Chapter 11 Cases to the extent of any postpetition First Lien Diminution in Value (the "Senior Adequate Protection Superpriority Claim"), senior to all other administrative claims, other than the Carve-Out, and shall otherwise be subject to the Intercreditor Agreement.

(ii) Junior Adequate Protection Superpriority Claim. As further adequate protection to the extent the Junior Adequate Protection Liens are insufficient, the

Second Lien Agent is hereby granted, to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Chapter 11 Cases to the extent of any postpetition Second Lien Diminution in Value (the “Junior Adequate Protection Superpriority Claim” and with the Senior Adequate Protection Superpriority Claim, the “Adequate Protection Superpriority Claims”), senior to all other administrative claims, other than the Senior Adequate Protection Superpriority Claim and the Carve-Out, and otherwise subject to the Intercreditor Agreement.

(iii) Priority of Adequate Protection Superpriority Claims. The Senior Adequate Protection Superpriority Claim will not be junior to any other administrative claims (other than the Carve-Out) and shall otherwise be subject to the Intercreditor Agreement. The Junior Adequate Protection Superpriority Claim will be junior to the Senior Adequate Protection Superpriority Claim and the Carve-Out and shall otherwise be subject to the Intercreditor Agreement.

(e) Reporting. On or about the date hereof, the Debtors provided the Agents with a copy of the Initial Budget in the form attached hereto as **Exhibit A**. Not later than the last business day of the first full four-week period following the Petition Date (and each four-week period thereafter), the Debtors shall provide the Agents with the Debtors’ estimate of cash receipts and cash disbursements for the following thirteen (13) weeks, with detail consistent with the Initial Budget (the latest of such cash forecasts delivered to the Agents (or if no such cash forecast has been delivered to the Agents, the Initial Budget), the “Budget”). In addition, not later than the last business day of the second full week following the Petition Date and each week thereafter, the Debtors shall provide the Agents with a report, as of the preceding Saturday of each such week, comparing actual cash receipts and disbursements for such immediately

preceding week (as well as cumulative to the Petition Date) to the estimated cash receipts and disbursements for such week or cumulative period reflected in the Budget (such reports, each a “Weekly Cash Report”). Further, the Debtors shall continue to provide reports to the First Lien Agent as required under Sections 8.1, 8.2.1, and 8.3.1 of the Senior Credit Agreement.

(f) Insurance. The Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral materially consistent with the coverage maintained prepetition.

(g) Postpetition Fees & Expenses.

(i) As further adequate protection, but subject in all respects to Paragraph 4(g)(ii) below, the Debtors shall pay or reimburse (i) the First Lien Agent for all reasonable and documented fees and out-of-pocket expenses incurred by it (including the reasonable and documented fees and out-of-pocket expenses of counsel to the First Lien Agent) in connection with the Chapter 11 Cases and (ii) the Second Lien Agent for all reasonable and documented fees and out-of-pocket expenses incurred by it (including the reasonable and documented fees and out-of-pocket expenses of counsel to Second Lien Agent in connection with these Chapter 11 Cases) in an amount not to exceed \$200,000.00 per calendar month; provided, that nothing in this Paragraph 4(g) shall require the Debtors to pay an invoice for fees or expenses of the Second Lien Agent related to any of the following (each a “Second Lien Contrary Event”): (1) litigation commenced by or against a Prepetition Second Lien Secured Party (including any motions or other contested matters in which any Prepetition Second Lien Secured Party has filed an objection to relief sought by the Debtors unless such objection is sustained by a final order of this Court or another court of competent jurisdiction); or (2) any pleading, motion, complaint, declaration, objection, or other filing or act of a Prepetition Second

Lien Secured Party (A) in furtherance of limiting the Debtors' use of Cash Collateral (other than to enforce the terms of this Interim Order), (B) that is otherwise materially inconsistent with this Interim Order, (C) that is materially inconsistent with the Debtors' implementation of their Chapter 11 Cases, including their disclosure statement, plan of reorganization, filings related to the Debtors' exclusivity, the sale process, approvals of employee incentive or retention programs, or other material proceedings in these Chapter 11 Cases, or (D) to appoint a chapter 11 trustee or examiner, or seeking to convert these Chapter 11 Cases or otherwise dismiss them.

(ii) None of the fees and expenses payable pursuant to this Paragraph 4(g) shall be subject to separate approval by this Court, but the Agent's shall provide copies of any such invoices, which may be in summary form and redacted for privilege to the U.S. Trustee, the Debtors, and the Committee (the "Notice Parties"), who may object to the reasonableness of such fees and expenses within ten (10) Business Days of the receipt of an invoice detailing such fees and expenses, and this Court shall resolve any dispute as to the reasonableness of any such fees and expenses that cannot be consensually resolved, and any professionals retained by the First Lien Agent and Second Lien Agent, as applicable, in connection herewith shall not be required to file any interim or final fee application with respect thereto. Promptly following the completion of the ten (10) Business Day objection period, if no objection is made or following the resolution of any dispute regarding the fees and expenses payable pursuant to this paragraph, the Debtor shall pay the professional fees and expenses provided for in this paragraph. To the extent any of the Notice Parties in good faith believe an invoice for fees and expenses is unreasonable or includes fees and expenses related to a Second Lien Contrary Event (any such invoice, a "Disputed Invoice"), the Debtors, the applicable Notice Party, and the applicable Agent shall meet and confer regarding the Disputed Invoice. If the

parties are unable to resolve any dispute regarding a Disputed Invoice within a reasonable time after meeting and conferring, any such party may request that this Court adjudicate the dispute, and nothing in this Paragraph 4(e) shall require the Debtors to pay the disputed portion of any Disputed Invoice prior adjudication of such dispute by this Court.

(h) Letters of Credit. As soon as practicable, the Debtors shall cash collateralize the Prepetition Letters of Credit by depositing funds in an amount equal to 103% of the face amount of the Prepetition Letters of Credit into a segregated account with the First Lien Agent on customary terms that are reasonably acceptable to the First Lien Agent (the “L/C Cash Collateral”). The First Lien Agent shall be authorized to draw upon such L/C Cash Collateral and apply the L/C Cash Collateral to the obligations under the First Lien Credit Facility if there is a corresponding draw upon the Prepetition Letters of Credit (and to pay letter of credit fees that come due in accordance with the Senior Credit Agreement), in either case, without the need for any further order of this Court (including to modify the automatic stay).

5. Events of Default. The occurrence of any of the following events, unless waived by the First Lien Agent and the Second Lien Agent in writing, shall constitute an event of default hereunder (each, an “Event of Default”):

(a) The Debtors’ failure to perform, in any material respect, any of their obligations under the Interim Order;

(b) Dismissal of any of the Chapter 11 Cases or conversion of any of the Chapter 11 Cases to chapter 7; and

(c) the appointment of a chapter 11 trustee or examiner with expanded powers in any of the Chapter 11 Cases.



Upon the occurrence and during the continuation of an Event of Default under Paragraph 5(a), the First Lien Agent or the Second Lien Agent may deliver a written notice of an Event of Default (a “Default Notice”), which Default Notice shall be given by email to counsel to the Debtors, counsel to the First Lien Agent, counsel to the Second Lien Agent, the U.S. Trustee, and counsel to any Committee. The Debtors shall have five (5) business days from the date of delivery of such Default Notice to cure such Event of Default (the “Cure Period”), and the Debtors’ authorization to use Cash Collateral pursuant to this Interim Order shall cease if the Event of Default is not cured by the end of the Cure Period (other than with respect to the Carve-Out). For avoidance of doubt, the Cure Period shall not apply to an Event of Default under Paragraph 5(b) or (c).

6. Carve-Out. (a) For purposes of this Order, the “Carve-Out” shall mean: (i) fees owing to the United States Trustee incurred in connection with the Chapter 11 Case, (ii) fees and expenses of a chapter 7 trustee in an amount not to exceed \$25,000, (iii) professional fees, expenses and disbursements incurred by professional persons employed by the Debtors or any Committee (including any fees and expenses of the members of any Committee) (“Professional Fees”) at any time prior to the Termination Date (the “Pre-Trigger Carve-Out”) and (iv) Professional Fees incurred after the Termination Date in an amount not to exceed \$10,000,000 (the “Post-Trigger Date Carve-Out”).

(b) The Debtors shall be authorized to transfer cash-on-hand from time to time in the amount equal to the total budgeted fees and expenses of the Estate Professionals for the subsequent two-week period in the Budget (plus any true-up necessary for prior periods) into a segregated account not subject to the control of the Prepetition Secured Parties (the “Professional Fee Escrow”). The Debtors shall be authorized to use funds held in the

Professional Fee Escrow to pay Professional Fees as they become allowed and payable pursuant to the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable interim or final orders of this Court; *provided*, that the Debtors' obligations to pay allowed Professional Fees shall not be limited or be deemed limited to funds held in the Professional Fee Escrow. Upon the delivery of a Default Notice, the Debtors shall utilize all cash on hand, to transfer into the Professional Fee Escrow cash in an amount equal to all accrued but unpaid Allowed Professional Fees as of the first business day following delivery of the Default Notice plus an amount sufficient to ensure that the Professional Fee Escrow is equal to the Pre-Trigger Carve-Out and the Post-Trigger Date Carve-Out (collectively, the "Estate Professionals Carve Out Amount"). Funds in the Professional Fee Escrow shall be held in trust and available solely to pay Professional Fees.

(c) The Prepetition Secured Parties shall retain an automatically perfected and continuing security interest in any residual interest in the Professional Fee Escrow available following satisfaction in full of all obligations benefiting from the Carve-Out.

(d) For the avoidance of doubt and notwithstanding anything to the contrary, the Carve Out shall be senior to all liens and claims, any liens and claims granted as adequate protection (including the Adequate Protection Liens and Adequate Protection Superpriority Claims), and all liens and claims under the First Lien Credit Facility and Note Purchase Agreement.

(e) Neither the payment of Professional Fees, the Professional Fee Escrow, nor the Estate Professionals Carve Out Amount shall include payment for any fees and expenses, if any, incurred in connection with the initiation, joinder or prosecution of any action contesting

the indebtedness owed to the Prepetition First Lien Lenders or the validity of any liens granted to any of such parties.

7. Subject to the entry of the Final Order, effective as of the time of commencement of the Debtors' bankruptcy case on the Petition Date, the Debtors waive irrevocably all claims and rights, if any, it or its estates might otherwise assert against the Prepetition Collateral of the Prepetition First Lien Lenders pursuant to Bankruptcy Code section 506(c).

8. Reversal, Modification, Vacatur, or Stay. Any reversal, modification, vacatur, or stay of any or all of the provisions of this Interim Order (other than in accordance with an order entered at a Final Hearing, the "Final Order") shall not affect the validity, priority or enforceability of any Adequate Protection Liens or superpriority claims granted hereunder, in each case, which has incurred prior to the effective date of such reversal, modification, vacatur, or stay. Notwithstanding any reversal, modification, vacatur, or stay (other than in accordance with a Final Order), (a) this Interim Order shall govern, in all respects, any use of Cash Collateral or Adequate Protection Lien incurred by the Debtors prior to the effective date of such reversal, modification, vacatur, or stay and (b) the Agents shall be entitled to all benefits and protections granted by this Interim Order with respect to any such use of Cash Collateral or such Adequate Protection Lien incurred by the Debtors prior to such reversal, vacatur or stay.

9. Reservation of Rights. Except as otherwise expressly set forth herein, this Interim Order and the transactions contemplated hereby shall be without prejudice to the Debtors' right to seek the continuing use of Cash Collateral, including following a Termination Event, and/or the approval of any debtor-in-possession financing. Further, notwithstanding anything to the contrary herein, nothing in this Interim Order shall (a) constitute a finding or ruling by this Court that the Prepetition First Liens, Prepetition Second Liens, or Senior Permitted Liens are valid,

binding, enforceable, prior, perfected, or non-avoidable or (b) prejudice the rights of any party in interest, including, but not limited to, the Debtors, the First Lien Agent, the Second Lien Agent, and any Creditors' Committee to challenge the validity, priority, enforceability, avoidability, perfection, or extent of any such liens.

10. Findings of Fact and Conclusions of Law. This Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon the entry thereof. To the extent that any findings of fact are determined to be conclusions of law, such findings of fact shall be adopted as such; and to the extent that any conclusions of law are determined to be findings of fact, such conclusions of law shall be adopted as such.

11. No third-party rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, third party or incidental beneficiary.

12. Final Hearing. A Final Hearing on the relief requested in the Motion is scheduled for \_\_\_\_\_, 2023, at \_\_\_\_\_.m. (prevailing Eastern time) before this Court. In accordance with the Local Rules, the Debtors shall serve, or cause to be served, by first class mail or other appropriate method of service, a copy of the Motion (to the extent the Motion was not previously served on a party) and this Interim Order on (i) the Notice Parties, (ii) any party that has filed a request for notices with this Court, and (iii) counsel to any Creditors' Committee. Any responses or objections to final approval of the Motion shall be made in writing, conform to the applicable Bankruptcy Rules and Local Rules, be filed with this Court, set forth the name of the objecting party, the basis for the objection, and the specific grounds therefor and be served so as to be actually received on or before 4:00 p.m., prevailing Eastern Time, on \_\_\_\_\_, 2023 by the

following parties: (a) proposed counsel to the Debtors, (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn. Paul Basta (pbasta@paulweiss.com) and Robert Britton (rbritton@paulweiss.com), and (ii) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware, 19801 Attn: Pauline K. Morgan (pmorgan@ycst.com) and Andrew L. Magaziner (amagaziner@ycst.com); (b) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware, 19801, Attn: Linda Casey (linda.casey@doj.gov); (c) counsel to the Second Lien Agent; and (d) counsel to the First Lien Agent.

13. Order Effective Upon Entry. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

14. Retention of Jurisdiction. This Court has and will retain jurisdiction to enforce this Interim Order in accordance with its terms.

**EXHIBIT A**

**Initial Budget**

**Proterra, Inc.***Consolidated Cash Flows*

	<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Week 5</i>	<i>Week 6</i>	<i>Week 7</i>	<i>Week 8</i>	<i>Week 9</i>	<i>Week 10</i>	<i>Week 11</i>	<i>Week 12</i>	<i>Week 13</i>
<i>Week ending:</i>	<i>8/13</i>	<i>8/20</i>	<i>8/27</i>	<i>9/3</i>	<i>9/10</i>	<i>9/17</i>	<i>9/24</i>	<i>10/1</i>	<i>10/8</i>	<i>10/15</i>	<i>10/22</i>	<i>10/29</i>	<i>11/5</i>
<i>\$ in 000s</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>	<i>Fct</i>
<b>Receipts:</b>													
Receipts	8,465	14,349	12,982	6,577	5,862	15,142	6,417	5,016	9,339	7,074	7,074	9,718	9,873
Other	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Receipts	8,465	14,349	12,982	6,577	5,862	15,142	6,417	5,016	9,339	7,074	7,074	9,718	9,873
<b>Disbursements:</b>													
Vendor Payments	(1,910)	(2,208)	(5,585)	(5,879)	(18,221)	(11,313)	(8,742)	(6,460)	(1,551)	(4,432)	(1,550)	(2,117)	(1,504)
Payroll & Related	(517)	(5,639)	-	(5,957)	-	(5,957)	-	(5,957)	-	(4,960)	-	(4,901)	-
Rent & Lease Payments	-	-	-	(864)	-	-	-	(825)	-	-	-	-	(823)
Utilities	-	-	(8)	(84)	(39)	(53)	(16)	(53)	(16)	(53)	(16)	(53)	(16)
Freight & Shipping	-	-	(74)	(295)	(258)	(147)	(147)	(147)	(147)	(147)	(147)	(147)	(147)
Taxes	-	-	(5)	(1,044)	(17)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-
CAPEX	(35)	(928)	(503)	(208)	(900)	(900)	(900)	(900)	(900)	(900)	(900)	(900)	(900)
TPI Payments	-	-	-	-	-	-	-	-	-	-	-	-	-
LG Payments	-	-	-	-	(6,380)	-	-	-	-	(6,380)	-	-	-
Total Disbursements	(2,463)	(8,774)	(6,174)	(14,332)	(25,815)	(18,380)	(9,815)	(14,352)	(2,624)	(16,883)	(2,623)	(8,128)	(3,400)
Net Operating Cash Flow	6,002	5,575	6,808	(7,755)	(19,952)	(3,238)	(3,398)	(9,336)	6,716	(9,809)	4,450	1,589	6,474
<b>Financing &amp; Restructuring Activities:</b>													
Interest & Fees	-	-	-	74	-	-	-	(2,205)	-	-	-	-	14
Professional Fees	-	-	-	-	(1,334)	-	-	(150)	(3,824)	(1,619)	-	-	(4,780)
Other Restructuring	-	-	-	(1,250)	-	-	-	-	(316)	-	-	-	-
Total Financing & Restruct.	-	-	-	(1,176)	(1,334)	-	-	(2,355)	(4,141)	(1,619)	-	-	(4,766)
Net Cash Flow	6,002	5,575	6,808	(8,931)	(21,286)	(3,238)	(3,398)	(11,691)	2,575	(11,428)	4,450	1,589	1,708
<b>Cash Roll Forward</b>													
Bg. Cash Balance	137,882	143,884	149,459	156,267	147,337	126,051	122,813	119,414	107,723	110,299	98,870	103,320	104,910
Net Operating Cash Flow	6,002	5,575	6,808	(7,755)	(19,952)	(3,238)	(3,398)	(9,336)	6,716	(9,809)	4,450	1,589	6,474
Financing & Restruct.	-	-	-	(1,176)	(1,334)	-	-	(2,355)	(4,141)	(1,619)	-	-	(4,766)
Actual to Frctst Adj. (Estim. Float)	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Held (Excludes Restricted)	143,884	149,459	156,267	147,337	126,051	122,813	119,414	107,723	110,299	98,870	103,320	104,910	106,617
ABL Availability (Estim.)	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash & Liquidity	143,884	149,459	156,267	147,337	126,051	122,813	119,414	107,723	110,299	98,870	103,320	104,910	106,617