

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Prodigy Investment Holdings, Inc.,¹

Reorganized Debtor.

Chapter 11

Case No. 23-11120 (BLS)

(Jointly Administered)

**CERTIFICATION OF COUNSEL REGARDING ORDER APPROVING
STIPULATION AND SETTLEMENT AGREEMENT
RESOLVING CLAIM NO. 1351 FILED BY BC TRANSIT**

The undersigned counsel to Steven Balasiano, solely in his capacity as the distribution trustee (the “Distribution Trustee”) of the PTR A Distribution Trust (the “Distribution Trust”) established in the above-captioned chapter 11 case (the “Chapter 11 Case”) of the reorganized debtor (“Prodigy” or the “Reorganized Debtor”) hereby certifies as follows:

1. On May 16, 2022, Debtor Proterra Operating Company, Inc. (“Proterra Operating”) and BC Transit (“Claimant”) entered into the Master Contract 20.092 and other ancillary agreements as reflected by executed statements of work, change orders, annexes, schedules, and various executed agreements (collectively, the “Master Contract”), which provided for the procurement of heavy-duty battery electric buses, the installation and delivery of charging equipment, and the construction and design of related charging infrastructure.

2. In connection with the Master Contract, Liberty Mutual provided a Performance and a Labour and Material Payment Bond (trustee form), both issued under Bond Number BDTO-340107-022 (the “Bond”).

¹ The Reorganized Debtor in this Chapter 11 Case, along with the last four digits of the Reorganized Debtor’s federal tax identification number is: Prodigy Investments Holdings, Inc. (9565). The location of the Reorganized Debtor’s service address is: 3350 Virginia St., 2nd Floor, Miami, FL 33133.



3. On August 7, 2023, Proterra Inc (“Proterra”) and its affiliate, Proterra Operating (Proterra and Proterra Operating are collectively referred to as the “Debtors”) filed voluntary petitions for relief in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), commencing the Chapter 11 cases (collectively, the “Chapter 11 Cases”).²

4. On November 9, 2023, Claimant timely filed proof of claim number 973 against Debtor Proterra Operating asserting an unliquidated general unsecured claim.

5. On February 6, 2024, the Bankruptcy Court entered the *Thirty-First Order (I) Authorizing the Debtors to Reject Certain Executory Contracts, and (II) Granting Related Relief* [Docket No. 1183], which rejected the Master Contract effective as of March 5, 2024.

6. On April 5, 2024, Claimant filed an amended proof of claim number 1351 (the “Claim”) against Debtor Proterra Operating asserting a general unsecured claim in an amount no less than \$1,461,652.30. Claimant also reserved its rights to further amend the Claim, including the right to assert additional rejection damages arising from actual procurement costs for replacement buses and the right to seek attorney fees, each of which would have materially increased the amount of the Claim.

7. By order entered on March 6, 2024 [D.I. 1180], the Bankruptcy Court confirmed the *Fifth Amended Joint Chapter 11 Plan of Reorganization for Proterra Inc and its Debtor Affiliate* (the “Plan”) [D.I. 1154] and approved all supplements thereto, including the Distribution Trust Agreement (“DTA”).³ The Effective Date of the Plan occurred on March 13, 2024.

² For the avoidance of doubt, references to the Debtors and the Chapter 11 Cases pertain to the time before the entry of the Case Closing Order (defined herein), while references to the Reorganized Debtor and the Chapter 11 Case pertain to the period after the Effective Date and entry of the Case Closing Order, as applicable.

³ Capitalized terms used but not defined in this Stipulation shall have the meanings ascribed to such terms in the Plan.

8. Pursuant to the Plan, as of the Effective Date, the Distribution Trust was established, for, among other reasons, to provide for distributions to the Distribution Trust's Beneficiaries. See Plan, Art. IV. The Plan and the DTA authorize the Distribution Trustee to pursue objections to, and estimation and settlements of, all Disputed Claims, such as the Claim, to make the aforementioned distributions. See Plan, Art. IV.D.7.

9. Pursuant to the Plan, certain Retained Causes of Action were assigned to the Distribution Trust (the "Distribution Trust Causes of Action"). See *Notice of Filing Amended Exhibits B, C, and E of the Plan Supplement for the Fourth Amended Joint Chapter 11 Plan of Reorganization for Proterra Inc. and Its Debtor Affiliate* (the "Plan Supplement") [D.I. 1128]. Included in the Distribution Trust Causes of Action are all Retained Causes of Action that could have been brought against Claimant, including claims arising from the Master Contract, claims related to the Bond, and claims related to the Letter of Credit posted at Bank of America dated August 17, 2022 (the "Letter of Credit"), each as more fully described in the Plan Supplement (collectively, the "BC Transit Causes of Action"). See Plan Supplement, Exhibits B-1, B-5. The Plan and the DTA authorize the Distribution Trustee to pursue or settle all Distribution Trust Causes of Action in its sole discretion. See Plan, Art. IV.D.8(n), D.13.

10. The Parties have engaged in arm's-length negotiations regarding the Claim and the BC Transit Causes of Action and consent to the above relief and have memorialized their agreement in the *Stipulation and Settlement Agreement Resolving Claim No. 1351 Filed By BC Transit* (the "Settlement Agreement").

11. The Distribution Trustee has prepared a proposed order (the "Proposed Order"), attached hereto as **Exhibit A**, approving the Settlement Agreement. A true and correct copy of the Settlement Agreement is attached as **Exhibit 1** to the Proposed Order.

12. Based on the foregoing, the Parties respectfully request that the Court enter the attached Proposed Order approving the Settlement Agreement.

Dated: September 3, 2025
Wilmington, Delaware

MORRIS JAMES LLP

/s/ Siena B. Cerra

Eric J. Monzo (DE Bar No. 5214)
Brya M. Keilson (DE Bar No. 4643)
Siena B. Cerra (DE Bar No. 7290)
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
Telephone: (302) 888-6800
Facsimile: (302) 571-1750
E-mail: emonzo@morrisjames.com
bkeilson@morrisjames.com
scerra@morrisjames.com

and

Jeffrey L. Cohen, Esq. (admitted *pro hac vice*)
Eric S. Chafetz, Esq. (admitted *pro hac vice*)
Daniel B. Besikof, Esq. (admitted *pro hac vice*)
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 262-6700
E-mail: jcohen@lowenstein.com
echafetz@lowenstein.com
dbesikof@lowenstein.com

Counsel to the Distribution Trustee

EXHIBIT A

Proposed Order

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

In re:

Prodigy Investment Holdings, Inc.,¹

Reorganized Debtor.

Chapter 11

Case No. 23-11120 (BLS)

(Jointly Administered)

Re: Docket No. ____

ORDER APPROVING STIPULATION AND SETTLEMENT AGREEMENT

This Court, having considered the *Stipulation and Settlement Agreement Resolving Claim No. 1351 Filed by BC Transit* (the “Settlement Agreement”) between and among the PTR A Distribution Trust (the “Distribution Trust”) and BC Transit (“Claimant”) attached hereto as **Exhibit 1**; the Court having determined that good and adequate cause exists for approval of the Settlement Agreement; and the Court having determined that no further notice of the Settlement Agreement must be given:

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is approved.
2. The Distribution Trustee and the claims agent, Verita Global, LLC (f/k/a Kurtzman Carson Consultants LLC), are authorized and directed to modify the claims register to comport with the relief granted in this Order and as set forth in the Settlement Agreement.
3. The Distribution Trustee shall only be required to serve this Order on: (a) the U.S. Trustee; (b) the Claimant, and (c) any party that has requested notice pursuant to Bankruptcy Rule 2002.

¹ The Reorganized Debtor in this Chapter 11 Case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is: Prodigy Investments Holdings, Inc. (9565). The location of the Reorganized Debtor’s service address is: 3350 Virginia St., 2nd Floor, Miami, FL 33133.

4. The Bankruptcy Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation, and enforcement of the Settlement Agreement.

EXHIBIT 1

Settlement Agreement

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

In re:

Prodigy Investment Holdings, Inc.,¹

Reorganized Debtor.

Chapter 11

Case No. 23-11120 (BLS)

Jointly Administered

**STIPULATION AND SETTLEMENT AGREEMENT
RESOLVING CLAIM NO. 1351 FILED BY BC TRANSIT**

This Stipulation and Settlement Agreement (the “Stipulation”) is being entered into by and among Steven Balasiano, in his capacity as the distribution trustee (the “Distribution Trustee”) of the PTR A Distribution Trust (the “Distribution Trust”) established in the above-captioned chapter 11 case (the “Chapter 11 Case”) of the reorganized debtor (the “Reorganized Debtor”), and BC Transit (“Claimant”), by their undersigned counsel.

Recitals

A. On May 16, 2022, Debtor Proterra Operating Company, Inc. (“Proterra Operating”) and Claimant entered into the Master Contract 20.092 and other ancillary agreements as reflected by executed statements of work, change orders, annexes, schedules, and various executed agreements (collectively, the “Master Contract”), which provided for the procurement of heavy-duty battery electric buses, the installation and delivery of charging equipment, and the construction and design of related charging infrastructure.

¹ The Reorganized Debtor in this Chapter 11 Case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is: Prodigy Investments Holdings, Inc. (9565). The location of the Reorganized Debtor’s service address is: 3350 Virginia St., 2nd Floor, Miami, FL 33133.

B. In connection with the Master Contract, Liberty Mutual provided a Performance and a Labour and Material Payment Bond (trustee form), both issued under Bond Number BDTO-340107-022 (the “Bond”).

C. On August 7, 2023, Proterra Inc (“Proterra”) and its affiliate, Proterra Operating (Proterra and Proterra Operating are collectively referred to as the “Debtors”) filed voluntary petitions for relief in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), commencing the Chapter 11 cases (collectively, the “Chapter 11 Cases”).²

D. On November 9, 2023, Claimant timely filed proof of claim number 973 against Debtor Proterra Operating asserting an unliquidated general unsecured claim.

E. On February 6, 2024, the Bankruptcy Court entered the *Thirty-First Order (I) Authorizing the Debtors to Reject Certain Executory Contracts, and (II) Granting Related Relief* [Docket No. 1183], which rejected the Master Contract effective as of March 5, 2024.

F. On April 5, 2024, Claimant filed an amended proof of claim number 1351 (the “Claim”) against Debtor Proterra Operating asserting a general unsecured claim in an amount no less than \$1,461,652.30. Claimant also reserved its rights to further amend the Claim, including the right to assert additional rejection damages arising from actual procurement costs for replacement buses and the right to seek attorney fees, each of which would have materially increased the amount of the Claim.

G. By order entered on March 6, 2024 [D.I. 1180], the Bankruptcy Court confirmed the *Fifth Amended Joint Chapter 11 Plan of Reorganization for Proterra Inc and its Debtor*

² For the avoidance of doubt, references to the Debtors and the Chapter 11 Cases pertain to the time before the entry of the Case Closing Order (defined herein), while references to the Reorganized Debtor and the Chapter 11 Case pertain to the period after the Effective Date and entry of the Case Closing Order, as applicable.

Affiliate (the “Plan”) [D.I. 1154] and approved all supplements thereto, including the Distribution Trust Agreement (“DTA”).³ The Effective Date of the Plan occurred on March 13, 2024.

H. Pursuant to the Plan, as of the Effective Date, the Distribution Trust was established, for, among other reasons, to provide for distributions to the Distribution Trust’s Beneficiaries. See Plan, Art. IV. The Plan and the DTA authorize the Distribution Trustee to pursue objections to, and estimation and settlements of, all Disputed Claims, such as the Claim, to make the aforementioned distributions. See Plan, Art. IV.D.7.

I. Pursuant to the Plan, certain Retained Causes of Action were assigned to the Distribution Trust (the “Distribution Trust Causes of Action”). See *Notice of Filing Amended Exhibits B, C, and E of the Plan Supplement for the Fourth Amended Joint Chapter 11 Plan of Reorganization for Proterra Inc. and Its Debtor Affiliate* (the “Plan Supplement”) [D.I. 1128]. Included in the Distribution Trust Causes of Action are all Retained Causes of Action that could have been brought against Claimant, including claims arising from the Master Contract, claims related to the Bond, and claims related to the Letter of Credit posted at Bank of America dated August 17, 2022 (the “Letter of Credit”), each as more fully described in the Plan Supplement (collectively, the “BC Transit Causes of Action”). See Plan Supplement, Exhibits B-1, B-5. The Plan and the DTA authorize the Distribution Trustee to pursue or settle all Distribution Trust Causes of Action in its sole discretion. See Plan, Art. IV.D.8(n), D.13.

J. On March 22, 2024, the Court entered the *Order (I) Amending Case Caption to Reflect Change of Debtors’ Names, (II) Closing Proterra Operating Company, Inc’s Chapter 11 Case; and (III) Granting Related Relief* [D.I. 1233] (the “Case Closing Order”) authorizing the Debtors and Distribution Trust to amend the case caption used in the Chapter 11 Cases to reflect

³ Capitalized terms used but not defined in this Stipulation shall have the meanings ascribed to such terms in the Plan.

the changes of their respective legal names. As such, the Proterra Operating Company, Inc., Case No. 23-11121 (BLS), was closed while the lead case, Proterra Inc, Case No. 23-11120 (BLS), remained open. Furthermore, the caption was amended to reflect the new name of the Reorganized Debtor in the remaining Chapter 11 Case, Prodigy Investments Holdings, Inc.

K. The Distribution Trustee and the Claimant (collectively, the “Parties” and each a “Party”) acknowledge that the agreements in this Stipulation were agreed to as a compromise and final settlement of the disputes between the Parties.

L. The Parties have engaged in arm’s-length negotiations regarding the Claim and the BC Transit Causes of Action and agree as follows:

Agreement

1. Allowed Claim. The Parties hereby acknowledge and agree that the Claim is allowed as a Class 5 General Unsecured Claim in the amount of \$2,670,267 (the “Allowed Claim”). The Allowed Claim shall be treated as an Allowed Class 5 General Unsecured Claim for all purposes under the Plan. Any other claims filed by, or scheduled on behalf of, Claimant, if any, shall be disallowed and expunged, and Claimant shall be prohibited from filing any other claims against the Debtors, their estates, the Reorganized Debtor, the Distribution Trustee or the Distribution Trust of any type or nature. Claimant is not required to file any amendment, proof of claim, or take any other action in order to receive distributions on account of the Allowed Claim. The Distribution Trustee or the claims agent, Verita Global, is authorized to modify the claims register in the Debtors’ bankruptcy cases to reflect the agreements reflected herein.

2. Bond Release. Within five (5) business days of entry of an order by the Bankruptcy Court approving the terms of this Stipulation, Claimant shall send via overnight mail a bond release letter substantially in the form attached hereto as **Exhibit A** to Liberty Mutual with a copy to

counsel for the Distribution Trustee and shall take all actions necessary to ensure that the Bond is released and terminated.

3. Mutual Release. Each of the Parties hereby releases and discharges the other Party from all known and unknown claims and causes of action, including, but not limited to the BC Transit Causes of Action and any related claims or counter claims, which either Party has, or may have had against the other Party. The Parties acknowledge and agree that these releases are general releases and expressly waive and assume the risk of any and all claims for damages which exist as of this date, but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect its decision to enter into this Stipulation. For the avoidance of doubt, the foregoing paragraph does not apply to the Allowed Claim or the Claimant's right to receive distributions on account of the Allowed Claim.

4. Representations and Warranties. Each of the undersigned signatories hereby represents and warrants that he, she, or it has the power and authority to execute and deliver this Stipulation on behalf of his, her, or its respective client(s). Each of the Parties to this Stipulation represents that (i) such Party has the power and authority to enter into and perform under this Stipulation; (ii) such Party has taken all necessary actions to authorize the execution, delivery and performance of this Stipulation; (iii) this Stipulation has been duly executed and delivered by such Party and constitutes the legal, valid, and binding obligations of such Party, enforceable against it in accordance with their respective terms; (iv) such Party's execution, delivery, and performance of this Stipulation does not and will not conflict with, or constitute a violation or breach of, or constitute a default under, any obligation of such Party and will not violate any applicable law, or any order or decree of any court or government instrumentality applicable to such Party; and (v) such Party has entered into this Stipulation in reliance on its own independent investigation

and analysis of the facts underlying the subject matter of this Stipulation, has not relied upon any representations by any other Party or any other Party's attorneys, managers, agents, employees or representatives other than those that are set forth in this Stipulation, and no representations, warranties, or promises of any kind have been made directly or indirectly to induce him, her, or it to execute this Stipulation other than those that are set forth expressly in this Stipulation.

5. No Assignment. Claimant hereby represents and warrants that it holds no other proofs of claim or scheduled claims against the Debtors, their estates, the Reorganized Debtor, the Distribution Trustee, and the Distribution Trust, other than the Claim and that it has not assigned or transferred the Claim to any person or entity.

6. Voluntary Agreement. Each of the Parties acknowledges that it has read all of the terms of this Stipulation, has had an opportunity to consult with counsel of its own regarding its terms and enters into this Stipulation voluntarily and without duress.

7. Joint Drafting. This Stipulation shall be deemed to have been jointly drafted by the Parties, and in construing and interpreting this Stipulation, no provision shall be construed or interpreted for or against any Party because such provision or any other provision of the Agreement was purportedly prepared or requested by such Party.

8. Entire Agreement. This Stipulation constitutes the entire agreement between the Parties and may only be modified in writing signed by the Parties or their duly appointed agents. All prior agreements and understandings between the Parties concerning the subject matter hereof are superseded by the terms of this Stipulation.

9. Counterparts. This Stipulation may be executed in one or more counterparts, all of which shall be deemed to be a single original.

10. Jurisdiction. The Bankruptcy Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation, and enforcement of this Stipulation.

Dated: New York, New York
September 2, 2025

LOWENSTEIN SANDLER LLP

By: /s/ Eric S. Chafetz

Jeffrey L. Cohen, Esq.
Eric S. Chafetz, Esq.
Daniel B. Besikof, Esq.
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 262-6700
Email: jcohen@lowenstein.com
echafetz@lowenstein.com
dbesikof@lowenstein.com

-and-

MORRIS JAMES LLP

Eric J. Monzo, Esq.
Brya M. Kelson, Esq.
Tara C. Pakrouh, Esq.
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
Telephone: (302) 888-6800
Email: emonzo@morrisjames.com
bkelson@morrisjames.com
tparkrouh@morrisjames.com

Counsel to the Distribution Trustee

Dated: Los Angeles, California
September 2, 2025

PERKINS COIE LLP

By: /s/ Amir Gamliel

Amir Gamliel, Esq.
1888 Century Park East, Suite 1700
Los Angeles, CA 90067-1721
Tel: (310) 788-3276
E-mail: agamliel@perkinscoie.com

Counsel for BC Transit

EXHIBIT A



September 2, 2025

Liberty Mutual Insurance Company
Robert Marsh – Chief Agent
181 Bay Street, Suite 900
Brookfield Place
Toronto, Ontario M5J 2T3
Canada

RE: Release of Performance and Labour and Material Payment Bonds

Bond Number: BDTO-340107-022

Bond Amount: \$1,426,829.50

Bond Principal: Proterra Operating Company, Inc.

Bond Obligee: BC Transit

Contract Reference: Design-Build for the Victoria Transit Centre – Battery Electric Bus Turn-Key Charging Infrastructure under CCDC14 Design-Build Stipulated Price Contract 2013

History

The bond Obligee, BC Transit, entered into a written contract with the bond Principal, Proterra Operating Company, Inc., dated May 13, 2022. Liberty Mutual provided a performance bond and a labour and material payment bond (trustee form), both under number BDTO-340107-022 (the "Bonds") to underwrite the contract and its obligations, as provided through the brokerage firm Willis Canada Inc. on November 8, 2022. Subsequent to execution of the contract, Proterra Operating Company, Inc. filed for Chapter 11 bankruptcy relief in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (Case No. 23-11120) (the "Chapter 11 Case").

BC Transit has resolved all contractual obligations with Proterra Operating Company, Inc. through a stipulation with the PTRS Distribution Trust appointed in the Chapter 11 Case and a Bankruptcy Court order approving the terms such stipulation.

BC Transit hereby releases Liberty Mutual Insurance Company of all obligations under bond number BDTO-340107-022 in the amount of \$1,426,829.50.

The signatory to this letter represents and warrants that it has the right and authority to execute this letter and bond release in their individual or representative capacity on behalf of the Obligee, BC Transit. A copy of the bond is enclosed for reference. BC Transit cannot locate the original copy of the bond.

Please confirm that the Bonds has been released by letter to the below signatory and by email to the following:

(1) ALamb@BCTransit.com;

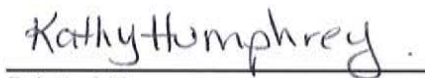
(2) AGamliel@perkinscoie.com;
(3) echafetz@lowenstein.com;
(4) kmoynihn@lowenstein.com.

Executed by:

Kathy Humphrey, Vice President and CFO
BC Transit
520 Gorge Road East, PO Box 9861
Victoria, BC, Canada
V8W 9T5

A handwritten signature in cursive script, appearing to read "Kathy Humphrey", written over a horizontal line.

Signature:

The name "Kathy Humphrey" written in a cursive script, underlined.

Printed Name:

Title: Vice President and CFO

Email: khumphrey@bctransit.com

LIBERTY MUTUAL INSURANCE COMPANY
181 Bay Street, Suite 1000, Brookfield Place, Toronto, Ontario M5J 2T3



Standard Construction Document
CCDC 221 – 2002

PERFORMANCE BOND

No. BDTO-340107-022

Bond Amount \$1,426,829.50

Proterra Operating Company, Inc. as Principal, hereinafter called the Principal, and Liberty Mutual Insurance Company a corporation created and existing under the laws of Massachusetts and duly authorized to transact the business of Suretyship in Canada as Surety, hereinafter called the Surety, are held and firmly bound unto **BC TRANSIT** as Oblige, hereinafter called the Oblige, in the amount of **One Million Four Hundred Twenty Six Thousand Eight Hundred Twenty Nine and 50/100 Dollars (\$1,426,829.50)** lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal has entered into a written contract with the Oblige, dated **13th day of May**, in the year **2022** for **Design-Build for the Victoria Transit Centre - Battery Electric Bus Turn Key Charging Infrastructure under CCDC14 Design-Build Stipulated Price Contract 2013** hereinafter referred to as the Contract.

The condition of this obligation is such that if the Principal shall promptly and faithfully perform the Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Oblige to be, in default under the Contract, the Oblige having performed the Oblige's obligations thereunder, the Surety shall promptly:

- 1) remedy the default, or;
- 2) complete the Contract in accordance with its terms and conditions or;
- 3) obtain a bid or bids for submission to the Oblige for completing the Contract in accordance with its terms and conditions and upon determination by the Oblige and the Surety of the lowest responsible bidder, arrange for a contract between such bidder and the Oblige and make available as work progresses (even though there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to pay to complete the Principal's obligations in accordance with the terms and conditions of the Contract and to pay those expenses incurred by the Oblige as a result of the Principal's default relating directly to the performance of the work under the Contract, less the balance of the Contract price; but not exceeding the Bond Amount. The balance of the Contract price is the total amount payable by the Oblige to the Principal under the Contract, less the amount properly paid by the Oblige to the Principal, or;
- 4) pay the Oblige the lesser of (1) the Bond Amount or (2) the Oblige's proposed cost of completion, less the balance of Contract price.

It is a condition of this bond that any suit or action must be commenced before the expiration of two (2) years from the earlier of (1) the date of Substantial Performance of the Contract as defined in the lien legislation where the work under the Contract is taking place, or, if no such definition exists, the date when the work is ready for use or is being used for the purpose intended, or (2) the date on which the Principal is declared in default by the Oblige.

The Surety shall not be liable for a greater sum than the Bond Amount.

No right of action shall accrue on this Bond, to or for the use of, any person or corporation other than the Oblige named herein, or the heirs, executors, administrators or successors of the Oblige.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated **8th day of November**, in the year **2022**.

SIGNED and SEALED
in the presence of

Proterra Operating Company, Inc. Principal

Signature

Name of person signing

ATTORNEY IN FACT

Liberty Mutual Insurance Company Surety

Signature

Nobu Mafu, Attorney-in-Fact

Name of person signing



LIBERTY MUTUAL INSURANCE COMPANY
181 Bay Street, Suite 1000, Brookfield Place, Toronto, Ontario M5J 2T3

**LABOUR AND MATERIAL PAYMENT BOND
(TRUSTEE FORM)**

Standard Construction Document
CCDC 222 - 2002

No. BDTO-340107-022

Bond Amount \$1,426,829.50

Proterra Operating Company, Inc. as Principal, hereinafter called the Principal, and Liberty Mutual Insurance Company a corporation created and existing under the laws of Massachusetts and duly authorized to transact the business of Suretyship in Canada as Surety, hereinafter called the Surety, are held and firmly bound unto **BC TRANSIT** as Oblige, hereinafter called the Oblige, in the amount of **One Million Four Hundred Twenty Six Thousand Eight Hundred Twenty Nine and 50/100 dollars (\$1,426,829.50)** lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal has entered into a written contract with the Oblige, dated **13th day of May**, in the year **2022** for

Design-Build for the Victoria Transit Centre - Battery Electric Bus Turn Key Charging Infrastructure under CCDC14 Design-Build Stipulated Price Contract 2013 in accordance with the Contract Documents submitted, and which are by reference made part hereof and are hereinafter referred to as the Contract.

The Condition of this obligation is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof, shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment marketplace in which the work is taking place.
2. The Principal and the Surety, hereby jointly and severally agree with the Oblige, as Trustee, that every Claimant who has not been paid as provided for under the terms of its contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of its contract with the Principal and have execution thereon. Provided that the Oblige is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Oblige or by joining the Oblige as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants, or any of them, who take such act, action or proceeding shall indemnify and save harmless the Oblige against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Oblige by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants, or any of them may use the name of the Oblige to sue on and enforce the provisions of this Bond.
3. It is a condition precedent to the liability of the Surety under this Bond that such Claimant shall have given written notice as hereinafter set forth to each of the Principal, the Surety and the Oblige, stating with substantial accuracy the amount claimed, and that such Claimant shall have brought suit or action in accordance with this Bond, as set out in sub-clauses 3 (b) and 3 (c) below, Accordingly, no suit or action shall be commenced hereunder by any Claimant:
 - a) unless such notice shall be served by mailing the same by registered mail to the Principal, the Surety and the Oblige, at any place where an office is regularly maintained for the transaction of business by such persons or served in any manner in which legal process may be served in the Province or Territory in which the subject matter of the Contract is located. Such notice shall be given.



LIBERTY MUTUAL INSURANCE COMPANY
181 Bay Street, Suite 1000, Brookfield Place, Toronto, Ontario M5J 2T3

- i) in respect of any claim for the amount or any portion thereof, required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal, or under the lien Legislation applicable to the Claimant's contract with the Principal, whichever is the greater, within one hundred and twenty (120) days after such Claimant should have been paid in full under the Claimant's contract with the Principal;
- ii) in respect of any claim other than for the holdback, or portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or labour or furnished the last of the materials for which such claim is made under the Claimant's contract with the Principal;
- b) after the expiration of one (1) year following the date on which the Principal ceased work on the Contract, including work performed under the guarantees provided in the Contract;
- c) other than in a Court of competent jurisdiction in the Province or Territory in which the work described in the Contract is to be installed or delivered as the case may be and not elsewhere, and the parties hereto agree to submit to the jurisdiction of such Court.
- 4. The Surety agrees not to take advantage of Article 2365 of the Civil Code of the Province of Quebec in the event that, by an act or an omission of a Claimant, the Surety can no longer be subrogated in the rights, hypothec and privileges of said Claimant.
- 5. Any material change in the contract between the Principal and the Oblige shall not prejudice the rights or interest of any Claimant under this Bond, who is not instrumental in bringing about or has not caused such change.
- 6. The amount of this Bond shall be reduced by, and to the extent of any payment or payments made in good faith, and in accordance with the provisions hereof, inclusive of the payment by the Surety of claims made under the applicable lien legislation or legislation relating to legal hypothecs, whether or not such claim is presented under and against this Bond.
- 7. The Surety shall not be liable for a greater sum than the Bond Amount.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated **8th** day of **November**, in the year **2022**.

SIGNED and SEALED

in the presence of

ATTORNEY IN FACT

Proterra Operating Company, Inc. Principal

Signature

Name of person signing

Liberty Mutual Insurance Company Surety

Signature

Nobu Mafu, Attorney-in-Fact

Name of person signing

