

Fill in this information to identify the case:

Debtor Proterra Operating Company, Inc.

United States Bankruptcy Court for the: _____ District of Delaware
(State)

Case number 23-11121

**Official Form 410
Proof of Claim**

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

<p>1. Who is the current creditor?</p>	<p><u>Kerwin Associates, LLC</u> Name of the current creditor (the person or entity to be paid for this claim)</p> <p>Other names the creditor used with the debtor _____</p>	
<p>2. Has this claim been acquired from someone else?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
<p>3. Where should notices and payments to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p>	<p>Where should notices to the creditor be sent?</p> <p><u>Kerwin Associates, LLC</u> <u>1733 Woodside Road, Suite 260</u> <u>Redwood City, CA 94061, USA</u></p>	<p>Where should payments to the creditor be sent? (if different)</p>
	<p>Contact phone <u>650-326-6565</u></p> <p>Contact email <u>danielle@kerwin.com</u></p>	<p>Contact phone _____</p> <p>Contact email _____</p>
	<p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	
<p>4. Does this claim amend one already filed?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY</p>	
<p>5. Do you know if anyone else has filed a proof of claim for this claim?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _

7. How much is the claim? \$ 50,000.00. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Services performed, executive search recruitment

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

- No
- Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

Amount entitled to priority

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

- No
- Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ 50000.00

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/29/2023 MM / DD / YYYY

/s/Danielle Ryan Signature

Print the name of the person who is completing and signing this claim:

Name Danielle Ryan First name Middle name Last name

Title Operations

Company Kerwin Associates, LLC Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

Contact phone Email



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 251-3076 | International (310) 751-2617

Debtor: 23-11121 - Proterra Operating Company, Inc.		
District: District of Delaware		
Creditor: Kerwin Associates, LLC 1733 Woodside Road, Suite 260 Redwood City, CA, 94061 USA Phone: 650-326-6565 Phone 2: 650-888-5837 Fax: Email: danielle@kerwin.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Creditor	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Services performed, executive search recruitment	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 50,000.00	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): Yes: 50000.00 Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Danielle Ryan on 29-Aug-2023 3:50:24 p.m. Eastern Time Title: Operations Company: Kerwin Associates, LLC		

1733 Woodside Road, Suite 260
Redwood City, CA 94061
650-326-6565

Date	Invoice #
6/20/2023	2782

Bill To
Proterra Operating Company, Inc. 1815 Rollins Road Burlingame, CA 94010 ap@proterra.com

Description	Amount
Russ Wood, AGC, Securities & Corporate Governance Placement Fee Start Date: June 20, 2023 (\$280K base x 25% fee = \$70K {minus \$20 prev invoiced} = \$50K due	50,000.00
E-mail	danielle@kerwin.com
Total	\$50,000.00



EXCLUSIVE SERVICES AGREEMENT

12/29/2022

This Exclusive Services Agreement (“Agreement”), entered into on _____, 2022, (the “Effective Date”) is between Kerwin Associates, LLC (“Kerwin”), having its principal place of business at 1733 Woodside Road, Suite 260, Redwood City, CA 94061 and Proterra Operating Company, Inc. (“Client”) having its principal place of business at 1815 Rollins Road, Burlingame, CA 94010.

WHEREAS, Client has need to hire one or more legal professionals for the job position(s) describe on Exhibit A (the “Position(s)”) and desires to use the services of Kerwin as a search firm to find and refer candidates for the Position(s) (“Services”);

WHEREAS, Kerwin is a legal search firm and desires to provide such services to Client; and

THEREFORE, in consider of the mutual promises contained herein, the party hereby agree as follows:

1. Services

Client agrees to exclusively utilize Kerwin to source, screen and recruit candidates (“Candidates”) for the Position(s) for a term of five (5) months commencing on the Effective Date (the (“Term”). Client shall not engage any other agency or legal search firm to identify or recruit Candidates for the Position during the Term and any extension thereof. Client agrees that any resumes that it receives directly for the Position(s) will be immediately routed to Kerwin for their vetting and review.

2. Fees and Expenses

(a) Retainer and Placement Fees:

Client shall pay to Kerwin a “Placement Fee” for each Position filled, which Placement Fee shall be equal to twenty-five percent (25%) of the hired Candidate’s first year total Cash Compensation. (“Cash Compensation” means the hired Candidate’s annual base compensation plus any hiring bonus paid to the hired Candidate).

All Retainer and Placement Fees (as described in the chart below) will be paid as follows:

Fee” per Position		
“Mid-Search Retainer Fee” per Position	\$10,000.00	Mid-Search, due and payable within 60 days following the Effective Date
“Final Payment” per Position	“Placement Fee” less Retainer amounts previously paid under this Agreement for the applicable Position.	Due and payable within 30 days following Client hiring a Candidate.

When a Candidate is hired by Client, only the Initial Retainer Fee and Mid Search Retainer Fee actually previously paid by Client will be deducted from Placement Fee to calculate the Final Payment owed by Client.

In the event that Client hires a Candidate directly or indirectly referred from Kerwin within the later of (i) one (1) year from Kerwin’s referral of the Candidate to Client, or (ii) one (1) year following the most recent communication (whether written, by email, in person, or otherwise) between Client and Kerwin regarding Services during the Term, Client shall pay to Kerwin the full Placement Fee applicable to such Candidate (less any Retainer Fees actually paid by Client for the applicable Position).

“Initial Retainer	\$10,000.00	Due and payable within 30 days following the Effective Date
-------------------	-------------	---



Retainer payments: If Kerwin has actively partnered with Client in good faith for five (5) months, and presented Client with one or more Qualified Candidates for a Position, and Client has interviewed any of such any Candidates, whether in person, by video or phone, or otherwise, and no offer has been extended by Client for the Position, Kerwin will be entitled to payment of the Initial Retainer Fee and the Mid-Search Retainer Fee as fees for work completed. (A "Qualified Candidate" is a Candidate that, after being fully vetted and screened by Kerwin, substantially meets the new-hire criteria submitted by Client for the applicable Position.)

(b) Different Hire: Should Client hire a Candidate sourced through Kerwin's search efforts for a position at Client that is different from the Position(s) within the later of (i) one (1) year from Kerwin's referral of the Candidate to Client, or (ii) one (1) year following the most recent communication (whether written, by email, in person, or otherwise) between Client and Kerwin regarding Services during the Term, Client shall pay to Kerwin the full Placement Fee applicable to such Candidate.

(c) Independent Contractor. Should a Candidate sourced through Kerwin's search be hired or otherwise retained by client as a consultant or independent contractor within the later of (i) one (1) year from Kerwin's referral of the Candidate to Client, or (ii) one (1) year following the most recent communication (whether written, by email, in person, or otherwise) between Client and Kerwin regarding Services during the Term, Client shall pay to Kerwin a Contractor Referral Fee equal to twenty-five percent (25%) of the hired Candidate's hourly wage for the first year of services provided to Client by the hired Candidate. If Client converts a Candidate sourced by Kerwin from contractor status to employee status, Client shall pay to Kerwin the full Placement Fee applicable to such Candidate, less the aggregate amount of any Contractor Referral Fee paid with respect to such Candidate.

(d) In the event that Client discontinues a search prior to an offer being made to Candidate, Client agrees to pay to Kerwin all Retainer Fees payments due and payable up to the time of discontinuation. Notwithstanding the discontinuation of the search or expiration of this Agreement, Client shall pay to Kerwin the Final Payment applicable to any Candidate sourced, screened or referred directly or indirectly by Kerwin that is hired by Client within the later of (i) one (1)

year from Kerwin's referral of the Candidate to Client, or (ii) one (1) year following the most recent communication (whether written, by email, in person, or otherwise) between Client and Kerwin related to the Candidate during the Term.

(e) If at any time during the search for a Candidate Client makes any "Alteration" to the Position specifications that require Kerwin to recommence all stages of the search process from the beginning, a new retainer agreement shall be drafted and put into effect before Kerwin continues to source and refer Candidates to Client. An "Alteration" to the Position specifications shall be defined as one or more of the following: (i) a material change in the level of experience of the desired candidate, (ii) a material change in the relevant legal substantive experience of the desired candidate, (iii) a change in the position title, or (iv) a material change in the required responsibilities of the Position.

(f) Upon approval of Client, Kerwin will be reimbursed for all normal and reasonable expenses as they pertain to the search for a Candidate, including, but not limited advertising, telephone charges, travel, hotel, postage and automobile expenses. Detail of all expenses incurred will be submitted with the final invoice. All travel and hotel expenses, if any, must be pre-approved by Client in writing.

3. Placement by Kerwin and Candidate Introduction.

In the event that Client receives any resumes directly or indirectly from prospective Candidates for the Position(s), whether prior to or after execution of this Agreement, Client agrees to forward said Candidates' resumes and/or names to Kerwin for Kerwin's screening, review and vetting, and all fees for Kerwin's services will apply to such prospective Candidates.

Should Kerwin forward a Candidate's resume or orally communicate a Candidate's interest for the said Position(s) to Client, that Candidate will be considered directly introduced or referred by Kerwin.

Candidate Definitions:

The Candidates definitions listed below shall be considered directly or indirectly referred or introduced by Kerwin for purposes of this Agreement and subject to payment of all fees as set forth in Section 2.



Kerwin agrees to perform the Services in a professional and workmanlike manner, as well as in accordance with any other customary standards of business conduct including conduct prescribed by law or regulation.

Direct Candidate: Kerwin sources, vets and screens said candidate and forwards resume, write-up and background to client.

Indirect Candidates: If a Candidate learns about the Position(s) directly or indirectly through Kerwin's sourcing, vetting, recruiting, and/or advertising processes, and Client receives a resume directly or indirectly from such Candidate, including, but not limited to a Candidate that submits his or her resume directly to a Client employee or a job portal of Client, such Candidate will be considered introduced to Client by Kerwin for purposes of this Agreement and subject to payment of all fees as set forth in Section 2.

Internal Candidates: Any internal Candidate who is introduced into the Client's hiring pipeline at any time during the Term, whether vetted by Kerwin or not, will be considered introduced By Kerwin for purposes of this Agreement and subject to payment of all fees as set forth in Section 2.

Previous Candidates: Any Candidate that was previously known to Client or interviewed by Client via telephone, video conference or in-person interview prior to Kerwin's presentation of such Candidate to Client or engagement of the Candidate.

Finalist Candidates. In the event that Client hire "Finalist" Candidate" referred by Kerwin for any position within twelve (12) months of the most recent communication (whether written, by email, in person, or otherwise) between Client and Kerwin regarding Services during the Term, such Candidate shall be considered directly placed by Kerwin for purposes of this Agreement, and subject to payment of all fees as set forth in Section 2. A "Finalist Candidate" is a Candidate who was vetted and screened by Kerwin and who is interviewed by both Kerwin and Client.

4. Consulting Services

During the Term, if Client has a need for advice and consulting assistance beyond the Services, including, but is not limited to, legal department strategic planning and team building, strategic compensation data, and coaching and counseling of individuals ("Advice and Counseling"), Kerwin will provide such Advice and Consulting services to Client for a fee of \$675.00 per hour.

5. Standards of Business Conduct

6. Termination

(a) This Agreement may be terminated by either party immediately upon giving fourteen (14) days' written notice. Client will be responsible for any fees due to Kerwin for work and services provided. Kerwin will be entitled to keep the initial and mid-search payments earned as fees for work completed and to invoice for any outstanding fees owed up until that time.

(b) In the event that a hired Candidate is terminated for cause by Client within ninety (90) days after commencing employment with Client, Kerwin shall immediately undertake a "Secondary Search" to find a replacement. The Placement Fee for such Secondary Search shall be at no additional charge to Client; provided that, if the Secondary Search hire's Cash Compensation is greater than the original hire's Cash Compensation, then Kerwin will send Client an invoice for the difference, after the replacement hire signs an offer letter. However, if there is an Alteration (as defined in 2 (f)) to the Position specifications during or at the beginning of the Secondary Search, a new Services Agreement shall be put into place with no reduction of the applicable Referral Fee.

7. Confidentiality

Both parties acknowledge that information supplied by either party and designated as proprietary and/or confidential or information that is confidential by its nature, and that is disclosed in connection with work performed under any Statement of Services is the proprietary information of the disclosing party ("Confidential Information"). The receiving party agrees: (i) to hold Confidential Information in strictest confidence; (ii) not to make use of Confidential Information other than to perform the obligations under this Agreement; and (iii) not to reproduce Confidential Information except as required for completion of items defined in this Agreement. Upon completion of use of Confidential Information, but in no event later than the termination of this Agreement, or at any time when so requested by the disclosing party, the receiving party shall return all Confidential Information, including materials derived therefrom (but excluding the receiving party's own confidential information), to the disclosing party or,



at the disclosing party's option, shall certify in writing the destruction of all Confidential Information.

8. Limitation of Liability

Under no circumstances shall either party be liable for any special, indirect, consequential, or incidental damages, or damages for lost profits, or loss of revenue, arising out of or related to this Agreement, whether such damages arise in contract, negligence, tort, under statute, in equity, at law, or otherwise, even if such party has been advised of the possibility of such damages.

9. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of California. The parties stipulate that jurisdiction and venue shall lie exclusively in San Mateo County, California for all causes of action under this Agreement, and Client submits to the jurisdiction of such courts.

10. Amendments

No amendment to this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of Client and Kerwin.

11. Severability of Provisions

It is the intent of the parties that all of the provisions set forth herein are severable and independent. In the event that any of the provisions herein should be held to be invalid or unenforceable, all other provisions will remain in full force and effect.

12. Dispute Resolution

The parties will attempt in good faith to resolve through direct negotiation with the other party any dispute, claim or controversy arising out of or relating to this Agreement. If the dispute is not resolved by this exchange of correspondence and direct communication, then the matter will be submitted to

mediation as a condition precedent to any arbitration or court proceeding. The parties shall mutually agree upon a mediator, and shall schedule and conduct such mediation at a mutually convenient time and place. Each party shall bear its own costs, fees and expenses associated with such mediation, except that the parties agree to split equally the costs and expenses of the mediator and the costs of the mediation itself.

Any dispute which is not resolved by mediation and which arises out of, relates to or concerns this Agreement may be resolved by one arbitrator, in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect in San Francisco, California and shall be held in the San Francisco Bay Area. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Costs of AAA will be shared equally by both parties.

13. Attorneys' Fees

If an action is brought by either party to this Agreement due to a controversy or claim arising out of or relating to the Agreement, the prevailing party shall be entitled to seek reasonable attorney's fees and costs.

14. Entire Agreement

The foregoing states the entire Agreement of the parties hereto, and supersedes all prior and contemporaneous understandings and representations. No modifications of this Agreement will be binding upon the parties unless in writing and executed by the respective parties.

{signatures on the following page}



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized representatives on the date above written.

Kerwin Associates, LLC

1733 Woodside Road, Suite 260
Redwood City, CA 94061

Email: cs@kerwin.com

Anne Kerwin Payne

EB151D09EC0B427...
Anne Kerwin Payne

1/2/2023

Date

Proterra Operating Company, Inc.

1815 Rollins Road
Burlingame, CA 94010

Email: DocuSigned by:

John Covington

2AC7FE021B63493...
Name

12/29/2022

Date

Please sign this Agreement and return the same for our files. An executed copy will be forwarded to you for your files.



EXHIBIT A

Job Description of Candidate ("Position(s)")

POSITION(s): Associate General Counsel. Securities & Corporate Governance

[Insert Job Description(s)]