

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

In re:)	
)	Chapter 11
PROTERRA INC, <i>et al.</i> , ¹)	
)	Case No. 23-11120 (BLS)
)	
Debtors.)	(Jointly Administered)
)	
)	Ref. Docket No. 529, 671, 715, 743 & 833

**NOTICE OF (I) PROTERRA TRANSIT SALE CLOSING AND (II) THIRD
AMENDMENT TO BATTERY LEASE ASSET PURCHASE AGREEMENT BY
AND AMONG THE DEBTORS AND PHOENIX MOTOR, INC.**

PLEASE TAKE NOTICE THAT, on November 13, 2023, the Debtors filed the *Notice of (A) Successful Bidder Regarding Debtors' (I) Transit Assets and (II) Energy Assets and (B) Cancellation of the Sale Hearing Solely With Respect to Proterra Energy* [Docket No. 529] (the "Notice of Successful Bidder"), thereby announcing that Phoenix Motor, Inc. ("Phoenix") was the Successful Bidder at the conclusion of the Auctions for the Transit Assets and the Battery Leases.

PLEASE TAKE FURTHER NOTICE THAT, attached to the Notice of Successful Bidder (i) at Exhibit A was that certain *Asset Purchase Agreement* (as it may be amended in accordance with its terms, the "Battery Lease APA") by and among the Debtors and Phoenix for the Battery Lease Assets, and (ii) at Exhibit B was that certain *Asset Purchase Agreement* (as it may be amended in accordance with its terms, the "Transit APA" and, together with the Battery Lease APA, the "APAs").

PLEASE TAKE FURTHER NOTICE that, on December 4, 2023, the Debtors filed the *Notice of Filing First Amendment to (I) Battery Lease Asset Purchase Agreement and (II) Transit Asset Purchase Agreement, Each by and Among the Debtors and Phoenix Motor, Inc.* [Docket No. 671].

PLEASE TAKE FURTHER NOTICE that, on December 18, 2023, the Debtors filed the *Notice of Filing of Second Amendment to (I) Battery Lease Asset Purchase Agreement and (II) Transit Asset Purchase Agreement, Each by and Among the Debtors and Phoenix Motor, Inc. and Rescheduling Sale Hearing With Respect to Proterra Transit* [Docket No. 743].

PLEASE TAKE FURTHER NOTICE that, on January 9, 2024, the United States Bankruptcy Court for the District of Delaware entered the *Order (A) Authorizing and Approving the Debtors' Entry Into the Asset Purchase Agreements, (B) Authorizing the Sale of the Debtors'*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Proterra Inc (9565); and Proterra Operating Company, Inc. (8459). The location of the Debtors' service address is: 1815 Rollins Road, Burlingame, California 94010.



Transit and Battery Lease Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (C) Approving the Assumption and Assignment of the Assumed Executory Contracts and Unexpired Leases, and (D) Granting Related Relief [Docket No. 833] (the “Sale Order”),² thereby approving the sale of the Transit Assets and the Battery Leases to Phoenix pursuant to the APAs, copies of which are attached to the Sale Order as Exhibits A and B, respectively.

PLEASE TAKE FURTHER NOTICE that, on January 11, 2024, the Debtors filed the *Notice of Filing of Revised Exhibit C and Exhibit D to Order (A) Authorizing and Approving the Debtors’ Entry Into the Asset Purchase Agreements, (B) Authorizing the Sale of the Debtors’ Transit and Battery Lease Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (C) Approving the Assumption and Assignment of the Assumed Executory Contracts and Unexpired Leases, and (D) Granting Related Relief* [Docket No. 848].

PLEASE TAKE FURTHER NOTICE that, on January 11, 2024, the sale of the Transit Assets closed in accordance with the Transit APA.

PLEASE TAKE FURTHER NOTICE that, on January 11, 2024, the Debtors and Phoenix entered into that certain *Third Amendment to Asset Purchase Agreement*, amending the Battery Lease APA, attached hereto as **Exhibit 1**.

PLEASE TAKE FURTHER NOTICE that copies of the APAs, all amendments thereto, and the Sale Order are available (a) free of charge from Kurtzman Carson Consultants LLC, the Debtors’ notice and claims agent, by calling (888) 251-3076 (USA or Canada) or (310) 751-2617 (International) and/or visiting the Debtors’ restructuring website at www.kccllc.net/proterra for no charge; and/or (b) for inspection on the Court’s website at <http://www.pacer.gov/>. A login and password to the Court’s Public Access to Electronic Court Records are required to access this information and can be obtained at <http://www.pacer.psc.uscourts.gov>.

² Capitalized terms used but not defined in this notice have the meanings given to such terms in the Sale Order.

Dated: January 11, 2024
Wilmington, Delaware

Respectfully submitted,

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

/s/ Shella Borovinskaya

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Andrew L. Magaziner (No. 5426)
Shella Borovinskaya (No. 6758)
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- and -

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*Counsel to the Debtors and
Debtors in Possession*

EXHIBIT 1

Third Amendment to Battery Lease APA

**THIRD AMENDMENT
TO
ASSET PURCHASE AGREEMENT**

This Third Amendment to Asset Purchase Agreement (this “**Amendment**”) is made and entered into as of January 11, 2024, by and among PROTERRA INC, a Delaware corporation (“**Holdco**”), PROTERRA OPERATING COMPANY, INC., a Delaware corporation (together with Holdco, “**Sellers**” and each a “**Seller**”), and PHOENIX MOTOR INC., a Delaware corporation (“**Purchaser**”). Each of the parties named above may be referred to herein as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, the Parties entered into that certain Asset Purchase Agreement, dated as of November 13, 2023, as amended by that certain First Amendment to Asset Purchase Agreement, dated as of December 1, 2023 and that certain Second Amendment to Asset Purchase Agreement, dated as of December 15, 2023, pursuant to which Sellers desire to sell, and Purchaser desires to purchase, certain battery lease agreements (the “**Purchase Agreement**”);

WHEREAS, the Parties also entered into that certain Asset Purchase Agreement, dated as of November 13, 2023, as amended by that certain First Amendment to Asset Purchase Agreement, dated as of December 1, 2023, and that certain Second Amendment to Asset Purchase Agreement, dated as of December 15, 2023, by and among Sellers and Purchaser, pursuant to which Sellers desire to sell, and Purchaser desires to purchase, certain assets related to the Proterra Transit Business Unit (as amended, restated, supplemented or otherwise modified, the “**Transit APA**”);

WHEREAS, Section 12.4 of the Purchase Agreement provides that the Purchase Agreement may be amended, superseded, canceled, renewed, or extended by a written instrument signed by the parties to the Purchase Agreement; and

WHEREAS, each of the Parties desires to amend the Purchase Agreement on the terms and conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Capitalized Terms. Capitalized terms used but not otherwise defined herein shall have the meanings assigned thereto in the Purchase Agreement.

2. Agreements and Amendments to the Purchase Agreement. The definition of “Outside Closing Date” is hereby deleted in its entirety and replaced with the following:

““**Outside Closing Date**” means January 23, 2024.”

3. Effectiveness; Continuing Effect; Miscellaneous. This Amendment shall take effect as of the date of execution of this Amendment. Except as amended by this Amendment, the

Purchase Agreement shall be and remain unmodified and in full force and effect in accordance with its terms, and each and every one of its provisions, as amended by this Amendment, are hereby adopted, ratified, and affirmed, and further it is understood and agreed that this Amendment does not limit or alter any rights or remedies of the Parties under any document, agreement or instrument other than the Purchase Agreement, except to the extent that the provisions hereof expressly address the matters set forth therein. Upon execution of this Amendment, this Amendment and the Purchase Agreement shall constitute one agreement. Any references to the “Agreement” in the Purchase Agreement or to the words hereof, hereunder or words of similar affect in the Purchase Agreement shall mean the Purchase Agreement as amended by this Amendment, although this change shall not alter the dates as of which any provision of the Agreement speaks, except as expressly provided herein. For example, phrases such as “the date hereof” and “the date of this Agreement” shall continue to refer to November 13, 2023, the date that the Purchase Agreement was executed, except as expressly provided herein. The provisions of Article XII of the Purchase Agreement shall apply to this Amendment *mutatis mutandis*.

4. Termination. Notwithstanding anything to the contrary contained herein, this Amendment shall be terminated immediately and automatically, without any further action from any Person, in the event that the consummation of the transactions contemplated by the Transit APA (including payment by Purchaser, (a) in accordance with Section 2.5(b) of the Transit APA, of the Cure Amounts (as defined in the Transit APA) and (b) in accordance with Section 4.2(b)(i) of the Transit APA, of an amount equal to (i) the Cash Component Price (as defined in the Transit APA) *minus* (ii) the Earnest Deposit (as defined in the Transit APA)) is not completed by 11:59 p.m. (Eastern Time) on January 11, 2024. In the event of such termination, this Amendment will become void and have no effect (such that the Purchase Agreement shall be and remain unmodified by this Amendment), and no Party will have any liability hereunder to the other Parties or their respective Affiliates, directors, officers or employees, except for the covenants and obligations of the Parties contained in Section 5 below.

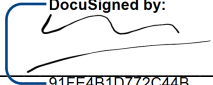
5. Joint Release Instruction. Purchaser hereby delivers to Sellers a duly executed counterpart by Xiaofeng Peng (on behalf of Purchaser) of the Joint Release Instruction attached hereto as Annex I (the “**Joint Release Instruction**”). Sellers agree to hold the Joint Release Instruction in escrow until, and Purchaser hereby agrees and authorizes the Joint Release Instruction to be automatically released if, the Purchase Agreement is terminated at a time when clause (b) of Section 10.2 of the Purchase Agreement is applicable. Upon such release, Sellers are hereby authorized to date, execute and deliver the Joint Release Instruction to the Escrow Agent for distribution of funds to Sellers in accordance with the terms of the Purchase Agreement, Escrow Agreement and Joint Release Instruction unless a Court of competent jurisdiction has directed otherwise. In the event the Escrow Agent seeks confirmation of the instruction set forth in the Joint Release Instruction, Purchaser shall confirm, or cause to be confirmed, such instruction and take all steps to ensure full and prompt release of all Deposit Escrow Funds to Sellers.

[Signature Pages to Follow]

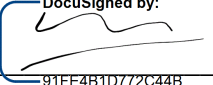
IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Amendment to be duly executed as of the day and year first herein above written.

SELLERS:

PROTERRA INC

DocuSigned by:

By: _____
Name: Gareth Joyce
Title: Chief Executive Officer and President

PROTERRA OPERATING COMPANY, INC.

DocuSigned by:

By: _____
Name: Gareth Joyce
Title: Chief Executive Officer and President

PURCHASER:

PHOENIX MOTOR INC.

By: 
Name: XIAOFENG PENG
Title: CEO

JOINT RELEASE INSTRUCTION

January 24, 2024

Citibank, N.A.
c/o Citi Private Bank
One Market Street, 42nd Flr
San Francisco, CA 94105
Attn: Adrian Cardenas
Email: adrian.cardenas@citi.com

Re: Joint Release Instruction

Dear Mr. Cardenas,

Reference is made to that certain Escrow Agreement, by and among Proterra Inc, a Delaware corporation ("Holdco"), Phoenix Motor Inc., a Delaware corporation ("Purchaser") and Citibank, N.A., as escrow agent (the "Escrow Agent"), dated as of October 27, 2023 (the "Escrow Agreement"). Unless otherwise indicated, all capitalized terms used and not otherwise defined herein have the respective meanings given to them in the Escrow Agreement.

This notice constitutes a Joint Release Instruction signed jointly by the respective authorized signatories of Holdco and Purchaser, in accordance with Exhibit A-1 and Exhibit A-2 to the Escrow Agreement.

Holdco and Purchaser hereby jointly instruct the Escrow Agent, in accordance with Section 4(a)(i) of the Escrow Agreement, to release all Escrow Funds (which includes, for the avoidance of doubt, the full amount of the Escrow Amount plus all Escrow Earnings, including all residual interest) from the Escrow Account, and pay all such amounts via wire transfer of immediately available funds, to the recipient set forth on Exhibit A to this Joint Release Instruction. Thereafter, the Escrow Account shall have a \$0.00 balance and should be closed.

[SIGNATURE PAGES FOLLOW]

Very truly yours,

PURCHASER:

PHOENIX MOTOR INC.

By: _____


Name: XIAOFENG PENG
Title: CEO

HOLDCO:

PROTERRA INC

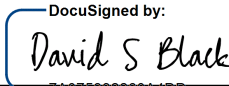
By:  DocuSigned by:
7A075332260A4DD...
Name: David Scott Black
Title: Chief Financial Officer

Exhibit A

To Holdco by wire transfer of immediately available funds to the following account:

Account Name: Proterra Operating Company, Inc. – 363 Sale Account

Account Number: 1416519600

Bank ABA: 121000358

Account holder address: 1815 Rollins Rd. Burlingame, CA 94010