

RECEIVED

MAR 19 2025

LEGAL SERVICES

Fill in this information to identify the case:

Debtor 1 Nikola CorporationDebtor 2
(Spouse, if filing)

United States Bankruptcy Court for the: District of Delaware

Case number 25-10258Filed: USBC - District of Delaware
Nikola Corporation, Et al
25-10258 (TMH)

(CLM)

NKL



0000000009

Official Form 410

Proof of Claim

04/19

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 of 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

1. Who is the current creditor?	<u>BDO USA, P.C.</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor <u>BDO USA, LLP</u>	
2. Has this claim been acquired from someone else?	☒ No ☐ Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>BDO USA, P.C. Attn: Jared Schierbaum</u> Name <u>4250 Lancaster Pike, Suite 120</u> Number Street <u>Wilmington DE 19805</u> City State ZIP Code Contact phone <u>(302) 656-5500</u> Contact email <u>jschierbaum@bdo.com</u>	Where should payments to the creditor be sent? (if different) <u>BDO USA, P.C. Attn: Fred Jones</u> Name <u>5300 Patterson Ave S.E., Suite 100</u> Number Street <u>Grand Rapids MI 49512</u> City State ZIP Code Contact phone <u>(616) 816-6037</u> Contact email <u>Fjones@bdo.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____
4. Does this claim amend one already filed?	☒ No ☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	☒ No ☐ Yes. Who made the earlier filing? _____	

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: 2 5 1 0

7. How much is the claim? \$ 2,000,000.00 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.
Settlement Agreement

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal 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 amounts 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)?

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

☒ No

☐ Yes. Check one:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$3,025* 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 \$13,650*) 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 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

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 acknowledgment 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 a 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 03/13/2025
MM / DD / YYYY

Signature



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

Name Fred Jones
First name Middle name Last name

Title Director - Credit to Cash

Company BDO USA, P.C.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 5300 Patterson Ave S.E., Suite 100
Number Street

Grand Rapids MI 49512
City State ZIP Code

MI 49512
State ZIP Code

Contact phone (616) 816-6037 Email FJones@bdo.com

FINAL 2023-12-26

FOR SETTLEMENT PURPOSES ONLY

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Settlement") is made between Nikola Corporation, a Delaware corporation (formerly doing business as Bluegentech, LLC, or under any of the following names: Nikola Motor Company, Nikola, NMC and all associated entities, all collectively referred to herein as "Nikola") and BDO USA, P.C. ("BDO"). Each party to this Settlement is referred to herein as a "Party" and collectively as "Parties."

WHEREAS, pursuant to the Parties' Engagement Letter dated October 12, 2016 (the "Engagement Letter"), BDO was engaged to provide consulting services relating to location analysis and business incentive negotiations (the "Services").

WHEREAS, BDO sent Nikola a Final Invoice pertaining to the business incentive aspects of the Services on January 3, 2023 ("Final Invoice").

WHEREAS, Nikola and BDO disputed the final amount due to BDO for the Services (the "Dispute").

WHEREAS, The Parties have agreed to conclude the engagement and cease all of the Services subject to the Engagement Letter. Further the Parties have agreed to enter into a payment plan to finalize the amount of professional fees owed to BDO as detailed in the Settlement Payment below.

WHEREAS, the Parties admit to no wrongdoing when providing, billing or paying for the Services.

WHEREAS, after good faith, arm's length negotiations, in consideration of the mutual promises, covenants, representations, and warranties contained in this Settlement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Nikola and BDO have agreed to resolve the matter on the terms and conditions set forth in this Settlement.

1. **Settlement Payment.** The Parties agree that in full satisfaction of all claims BDO and Nikola may have against one another and their respective predecessors, successors, parents, subsidiaries, affiliates, officers, directors, partners, employees, attorneys, agents, insurers, and their respective assigns,

FINAL 2023-12-26 FOR SETTLEMENT PURPOSES ONLY

representatives, heirs, executors and administrators ("Released Parties") arising out of or relating in any way to the Services or the Engagement Letter, Nikola agrees to pay BDO \$5 Million USD as follows:

- \$2 Million USD on or before January 19, 2024;
- \$1 Million USD on or before July 1, 2024
- \$1 Million USD on or before January 17, 2025; and
- \$1 Million USD on or before July 1, 2025.

Payment will be made to the following account:

BDO USA, P.C.
P.O. Box 642743
Pittsburgh, PA 15264-2743
Wire:
PNC Bank, N.A.
Pittsburgh, PA

2. **Release.** In exchange of the mutual promises and undertakings set forth herein, the Parties knowingly, voluntarily, and irrevocably releases and forever discharges the other Party and the Released Parties from any and all injuries, demands, losses, damages, costs, loss of services, expenses, compensation, claims, suits, causes of action, obligations, or liabilities related in any way to the Services or the Settlement Amount.

3. **No Admissions.** The Parties agree that the terms of this Settlement are not an indication by BDO that the Services performed were or are worth less than the actual billings but are offered as a means to settle in full the Dispute in the most expedient manner possible. The Parties agree that this Settlement is the result of a compromise of a dispute and is not to be construed as an admission of any liability, wrongdoing, or responsibility by either of the Parties.

4. **Undiscovered Claims.** The Parties acknowledge they may hereafter discover facts different from, or in addition to, those which they now believe to be true with respect to the released claims and agree the release of all claims contained in this Settlement shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof. This Settlement shall be in full

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FOR SETTLEMENT PURPOSES ONLY

settlement of all claims and disputes relating to the Dispute. The mutual covenants contained herein having been bargained for between the Parties with the knowledge of the possibility of such unknown claims with respect to the Services, were given in exchange for a full accord, satisfaction, and discharge of all such claims existing up to and including the date this Settlement is executed. Therefore, the Parties expressly waive any and all provisions, rights and benefits conferred by any law of the United States or of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH HIS DEBTOR.

5. Entire Agreement. This Settlement constitutes the whole agreement of the Parties hereto with respect to the subject matter hereof and may not be modified orally.
6. Authority. Each representative signing this Settlement warrants that he or she has the authority to bind their respective Party to the terms of this Settlement.
7. Drafting. This Settlement shall not be construed against any Party but shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity shall not be interpreted against any Party. All Parties have had the opportunity to have legal counsel review the terms of this Settlement prior to executing it.
8. Rights, Remedies and Dispute Resolution. This Settlement is not intended to limit, modify or revise any rights or remedies that the Parties may have pursuant to applicable law or the Engagement Letter, and does not supersede the Engagement Letter unless expressly otherwise provided for herein. Any dispute, legal action or proceeding arising from or relating to this Settlement shall be resolved pursuant to the dispute resolution procedure set forth in the Engagement Letter.
9. Counterparts. This Settlement may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures hereto were upon the same instrument.

FINAL 2023-12-26 FOR SETTLEMENT PURPOSES ONLY

10. Confidentiality. The Parties agree that the existence and terms of this Settlement shall remain confidential, subject to the exceptions expressly stated below. The prohibition against disclosure set forth in this paragraph shall not apply to discussions with attorneys, accountants and/or tax advisers, or to any disclosure compelled by any governmental authority, or to the extent disclosure is required by law, but only to the extent and for the purpose of such legally compelled disclosure after immediately providing the non-disclosing party with advance written notice such that it is afforded an opportunity to contest the disclosure or seek an appropriate protective order.

11. Notice. The Parties agree to provide each other with written notice within seven (7) days (or if served within less than seven days of any deadline to respond, immediately) of any subpoena, requests for production, summons, motion, order, or other request or directive that may call for documents relating to and/or their testimony about the terms of conditions of this Settlement so that the notified party may seek appropriate protection. Written notice of the foregoing, any other notice provided relating to this Settlement, shall be sent by overnight delivery and e-mail as follows:

To BDO:

James Clare
BDO USA, P.C
200 Park Avenue
New York, New York 10166
jclare@bdo.com

To Nikola:

Britton Worthen
Chief Legal Officer & Corporate Secretary
4141 E. Broadway Road
Phoenix, AZ 85040
britton@nikolamotor.com

12. Amendment. This Settlement may not be altered or modified, except in writing signed by the Parties.

FINAL 2023-12-26 FOR SETTLEMENT PURPOSES ONLY

13. Severability. In the event that any provision or part of this Settlement is found to be totally or partially invalid, illegal, or unenforceable, then the provision will be deemed to be modified or restricted to the extent and in the manner necessary to make it valid, legal, or enforceable, or it will be excised without affecting any other provision of this Settlement, with the Parties agreeing that the remaining provisions are to be deemed to be in full force and effect as if they had been executed by both Parties subsequent to the expungement of the invalid provision.

AGREED TO BY: 12/29/2023

Dated: December ____ 2023

Nikola Corporation

DocuSigned by:

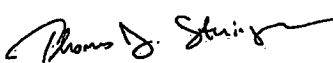
By: 

Britton Worthen

Chief Legal Officer & Corporate Secretary

Dated: December 26, 2023

BDO USA, P.C.

By: 

Tom Stringer

Principal & Practice Leader

Site Selection & Business Incentives

remely Urgent

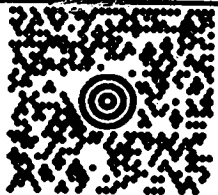
Express

RPOK0Y
BDO
4250 LANCASTER PIKE STE 120
WILMINGTON DE 19805

1.0 LBS LTR

1 OF 1

SHIP TO:
NIKOLA CORPORATION
CLAIMS PROCESSING CENTER
10300 SW ALLEN BLVD.
C/O EPIO CORPORATE RESTRUCTURING, L
BEAVERTON OR 97005



OR 971 7-01



RECEIVED

MAR 19 2025

LEGAL SERVICES

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BILLING: P/P

User id: 028

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