

Court File No.: CV-23-00693758-00CL

ORIGINAL TRADERS ENERGY LTD. ET AL.

**ELEVENTH REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR**

October 17, 2024

TABLE OF CONTENTS

| | | |
|--------------|--|-----------|
| I. | INTRODUCTION | 1 |
| II. | PURPOSE OF REPORT | 1 |
| III. | TERMS OF REFERENCE..... | 2 |
| IV. | BACKGROUND..... | 3 |
| V. | ACTIVITIES OF THE MONITOR | 7 |
| VI. | ACTIVITIES OF THE OTE GROUP..... | 8 |
| VII. | CASH RECEIPTS AND DISBURSEMENTS – APRIL 8, 2024 TO OCTOBER 6, 2024..... | 8 |
| VIII. | OTE GROUP’S REQUEST TO EXTEND STAY PERIOD TO APRIL 25, 2025..... | 10 |
| IX. | ITALIAN YACHT UPDATE | 12 |
| X. | TRANSITION TO BANKRUPTCY..... | 13 |
| XI. | MONITOR’S RECOMMENDATIONS..... | 15 |

APPENDICES

Appendix “A” – Tenth Report of the Monitor dated September 4, 2024 (without appendices)

Appendix “B” – Revised Cashflow Forecast

Appendix “C” – Enhanced Powers Order

Appendix “D” – Amended and Restated Initial Order

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO INC.**

ELEVENTH REPORT OF KPMG INC.
In its capacity as Monitor of the OTE Group

October 17, 2024

I. INTRODUCTION

1. On January 30, 2023 (the “**Filing Date**”), Original Traders Energy Ltd. and 2496750 Ontario Inc. (together, the “**Applicants**”) were granted relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). The relief granted under the Initial Order (as amended and restated on February 9, 2023, the “**Amended and Restated Initial Order**”) included a stay of proceedings in favour of the Applicants; the appointment of KPMG Inc. (“**KPMG**”) as the monitor in these proceedings (in such capacity, the “**Monitor**”); and other related relief. These proceedings under the CCAA are referred to herein as the “**CCAA Proceedings**”.
2. OTE Logistics LP and Original Traders Energy LP (together, the “**Limited Partnerships**”) are not Applicants in this proceeding. However, the Initial Order and the Amended and Restated Initial Order extended the same protections granted to the Applicants to the Limited Partnerships, on the grounds that the Limited Partnerships are related to and carry on operations that are integral to the business of the Applicants. The term “**OTE Group**” throughout this report refers to the Applicants and Limited Partnerships collectively.
3. KPMG has filed various reports with the Court in these proceedings. Copies of materials filed with the Court and other materials pertaining to the CCAA Proceedings, including all reports issued by the Monitor in these proceedings, are available on the Monitor’s website: <http://home.kpmg/ca/OTEGroup> (the “**Monitor’s Website**”).

II. PURPOSE OF REPORT

4. The purpose of this Eleventh Report of the Monitor (the “**Eleventh Report**”) is to provide information pertaining to:
 - (i) the activities of the OTE Group and the Monitor since the Monitor’s report dated September 4, 2024 (the “**Tenth Report**”);
 - (ii) the OTE Group’s reported receipts and disbursements for the period of September 18, 2024 to October 6, 2024, including a comparison of forecasted to reported results;
 - (iii) an update in respect of the Yacht Sales Process (as defined herein); and
 - (iv) the Monitor’s basis for bringing a motion seeking the following:

- a) an order (the “**Stay Extension and Activity Approval Order**”), among other things:
 - i. extending the stay of proceedings granted by this Court pursuant to the Initial Order, as extended by this Court from time-to-time and most recently to October 25, 2024 (the “**Stay Period**”), to April 25, 2025; and
 - ii. approving the Tenth Report of the Monitor dated September 4, 2024 and the Eleventh Report, and the activities and conduct of the Monitor described therein; and
- b) an order (the “**Transition Order**”), among other things:
 - i. requiring that, notwithstanding a bankruptcy filing by any of the entities of the OTE Group, these CCAA Proceedings shall remain extant until a CCAA termination order is sought and approved by this Court; and
 - ii. providing that KPMG Inc. (“**KPMG**”) shall have all of the powers and protections granted by this Court in favour of the Monitor should KPMG be appointed the bankruptcy trustee of any of the entities in the OTE Group in accordance with the Monitor’s Enhanced Powers and Amended Bid Process Approval Order granted by the Court on October 12, 2023 (the “**Enhanced Powers Order**”).

III. TERMS OF REFERENCE

- 5. In preparing the Eleventh Report, the Monitor has relied on information and documents provided by the OTE Group and their advisors, including unaudited financial information, declarations, in addition to information and documents obtained from third parties that responded to the Monitor’s requests for information and other information obtained by the Monitor (collectively, the “**Information Received**”). In accordance with industry practice, except as otherwise described in the Second Report of the Monitor dated March 13, 2023 (the “**Second Report**”), KPMG has reviewed the Information Received for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information Received in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses

no opinion or other form of assurance contemplated under GAAS in respect of the Information Received.

6. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND

7. Detailed information with respect to the OTE Group's business, operations, products and causes of insolvency is provided in the Monitor's pre-filing report dated January 30, 2023. Since the OTE Group's filing, this Court has granted several Orders, and various materials have been filed in connection therewith. The information below only provides the background on these proceedings relevant for this Eleventh Report. All Orders granted and materials filed in these proceedings can be accessed on the Monitor's Website.
8. On March 15, 2023, the Court granted a Mareva injunction as part of an Order (the "**Injunctive Order**") which restrained Glenn Page ("**Page**"), Mandy Cox ("**Cox**") and 2658658 Ontario Inc. ("**265**", and collectively, the "**Mareva Respondents**") from selling, removing, dissipating, alienating, transferring, assigning, encumbering or similarly dealing with a seventy foot yacht from the Italian shipbuilder Azimut Benetti, named "Cuz We Can" (the "**Italian Yacht**"), more particularly described in Schedule "A" of the Injunctive Order. On March 21, 2023 and March 28, 2023, this Court issued certain endorsements related to the Injunctive Order.
9. On July 17, 2023, this Court granted an Order (the "**Yacht Sale and AirSprint Proceeds Order**"), among other things, (i) authorizing and directing the Monitor to conduct a sale process for the Italian Yacht (the "**Yacht Sale Process**"); and (ii) directing AirSprint to remit to the Monitor the US\$5,482,779.85 and any accrued interest thereon (the "**AirSprint Proceeds**") that was then held in trust by AirSprint on account of net proceeds and receipts from the sale of property including aircraft interests that were purchased or financed from funds sent to AirSprint by any OTE Group entity or affiliate thereof. The Yacht Sale and AirSprint Proceeds Order also directed that the AirSprint Proceeds be held in trust pending judicial determination of the claims and entitlements to such proceeds as between the OTE Group entities and the Mareva Respondents or any of them.
10. On October 12, 2023, the Court issued the following:
 - (i) the Monitor's Enhanced Powers Order, among other things, providing the Monitor with enhanced powers in connection with the business and property of the OTE Group, and

approving an amended bid process for the sale of the assets of the OTE Group to be carried out by the Monitor (the “**Bid Process**”); and

- (ii) an Order, among other things, extending the stay period to April 26, 2024, approving certain amendments to the claims procedure of the OTE Group, and approving the activities of the Monitor.

11. After uncovering evidence that substantial payments were improperly and fraudulently made, and assets including cash improperly and fraudulently transferred, by the OTE Group to or for the benefit of Page, Cox, 265, and others, the Monitor filed its sixth report dated November 8, 2023 (the “**Sixth Report**”) in support of a motion (the “**Mareva Motion**”) for an Order (the “**Mareva Order**”) among other things:

- (i) extending the provisions of the Injunctive Order to apply to all of the assets of the Mareva Respondents, wheresoever located;
- (ii) expanding the Injunctive Order to restrain the Mareva Respondents and anyone else acting on their behalf or in conjunction with any of them directly or indirectly, and all other persons to whom notice of such an Order may be given, from selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any of the Mareva Respondents’ assets, including without limitation real property, bank accounts, insurance policies, annuities and other assets held by them or by any other person or entity on their behalf, wherever so located, without leave of this Court; and
- (iii) expanding the Injunctive Order to require the Mareva Respondents to each prepare and provide to the Monitor a sworn affidavit within ten days describing the nature, value and location of their assets wheresoever located, whether in their own name or not and whether solely or jointly owned or whether held in trust for any other party.

12. The Monitor subsequently filed the supplement to the Sixth Report dated December 4, 2023 (the “**Supplement to the Sixth Report**”) providing further details supporting its request for the Mareva Order.

13. Following a hearing on December 21, 2023, the Court ordered a broad Mareva injunction on January 16, 2024 against Page and 265 in respect of all of their worldwide assets and declined to order the broader Mareva injunction against Cox but instead ordered that Cox provide a statement of her worldwide assets (the “**Mareva Decision**”). Substantially all other terms of the proposed

Mareva Order sought by the Monitor were approved by the Court except for certain modifications required, including in respect of a cost arrangement between the Monitor, Page and Cox. In accordance with the Mareva Decision, the Monitor examined Page on February 28, 2024 and March 13, 2024. The Order in respect of the Mareva Decision was subsequently issued on February 28, 2024.

14. On December 22, 2023, counsel for the Monitor, counsel for the Mareva Respondents, and counsel for OTE USA LLC (“**OTE USA**”) attended a scheduling case conference before Justice Kimmel. OTE USA requested this Court schedule a motion (the “**OTE USA Motion**”) authorizing it to, among other things, (i) engage in discussions with the creditors of the OTE Group to discuss a proposed CCAA plan of arrangement (the “**Proposed Restructuring Plan**”), the terms of which were set out in a term sheet and (ii) engage with licensing authorities to reinstate the licenses of the OTE Group and/or negotiate new licenses in support of the Proposed Restructuring Plan.
15. Following discussions facilitated by the Monitor with the Ministry of Finance for Ontario and the Canada Revenue Agency, which discussions ultimately led to both entities confirming that they would not support the Proposed Restructuring Plan, OTE USA withdrew the OTE USA Motion on February 27, 2024.
16. On January 30, 2024, the Court issued the following Orders:
 - (i) an approval and vesting Order, among other things, approving the sale transaction of the OTE Group’s vehicles contemplated by an agreement of purchase and sale between the Monitor, on behalf of the OTE Group, and Allstar Auctions Inc. dated January 11, 2024 (the “**Vehicle Transaction**”); and
 - (ii) an Order, among other things, approving certain key employee retention plan payments and sealing certain confidential appendices to the Monitor’s seventh report dated January 22, 2024.
17. The Monitor issued its eighth report dated March 18, 2024 (the “**Eighth Report**”). As set out in detail in the Eighth Report, the Monitor sought two Orders: an Order approving a distribution from the proceeds of the Vehicle Transaction (the “**Distribution Order**”) and an Order approving a settlement between the Monitor, on behalf of the OTE Group, and AirSprint, and granting certain related releases (the “**AirSprint Funds Order**”). The Distribution Order was granted by the Court, but the relief sought in the AirSprint Funds Order was adjourned to a later date.

18. On April 22, 2024, the Court issued an Order (the “**Stay Extension, WEPPA, and Activity Approval Order**”), among other things:

- (i) approving the extension of Stay Period (as defined therein) to October 25, 2024, inclusive;
- (ii) declaring that pursuant to section 5(5) of the Wage Earner Protection Program Act (Canada), SC 2005, c 47, s 1 (“**WEPPA**”), the OTE Group and their collective former employees meet the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-222 and are individuals to whom the WEPPA applies as of the date of this Order;
- (iii) authorizing the Monitor to invest up to \$10 million of OTE Group funds into a one year redeemable Guaranteed Investment Certificate (the “**GIC**”) and authorizing the Monitor to execute the documentation necessary to ensure that the security of the Royal Bank of Canada (“**RBC**”) applied to those funds; and
- (iv) approving the Sixth Report; the Supplement to the Sixth Report; the Seventh Report; the Eighth Report; and the Monitor’s ninth report dated April 16, 2024 (filed in connection with that motion), and the activities and conduct of the Monitor in relation to the OTE Group and the CCAA Proceedings as set out therein.

19. The Court also issued a revised form of AirSprint Funds Order on the same date which order had incorporated certain revisions to the language of the release in favour of AirSprint.

20. Most recently, on September 9, 2024, the Court issued an Order (the “**Lease Termination Approval Order**”), among other things:

- (i) approving separate settlement agreements (the “**Lease Termination Settlement Agreements**”) between the Monitor, on behalf of the OTE Group, and the landlords of the Tyendinaga blending location and Whitefish blending location providing for the termination of the lease agreements in respect of those blending locations;
- (ii) vesting the fuel blending equipment at each blending location in the respective landlords; and
- (iii) temporarily sealing the Confidential Appendices to the Tenth Report.

V. ACTIVITIES OF THE MONITOR

21. Since the Tenth Report, the Monitor has engaged in various activities for the benefit of the OTE Group and its stakeholders, including:

- (i) maintaining the Monitor's Website where all court materials and other relevant documents pertaining to the CCAA Proceedings are available in electronic form;
- (ii) working with the OTE Group to implement procedures to monitor cash flows and make payments in accordance with the Amended and Restated Initial Order;
- (iii) working with the OTE Group and RBC (the OTE Group's secured bank lender) to invest \$8 million of the OTE Group's funds into a GIC;
- (iv) responding to enquiries and engaging in discussions with creditors (including RBC), former employees of the OTE Group, governmental authorities, including the Canada Revenue Agency and the Ministry of Finance of Ontario ("MOF"), and other stakeholders in connection with the CCAA Proceedings;
- (v) progressing the sale process for the Italian Yacht, including handling repairs required in advance of the marketing of the Italian Yacht;
- (vi) progressing discussions with U.S. counsel and other advisors on the outstanding U.S. tax refunds;
- (vii) progressing the investigation in respect of the improper and/or fraudulent payments made by OTE Group entities to Page, 265 and others;
- (viii) corresponding with the OTE Group, its legal counsel, and the Monitor's legal counsel on various matters pertaining to the CCAA Proceedings; and
- (ix) reviewing materials filed with the Court in respect of the CCAA Proceedings and dealing with various day-to-day issues impacting the OTE Group in the course of these proceedings.

22. The Tenth Report detailed the Monitor's activities since the Ninth Report. A copy of the Tenth Report is attached hereto as **Appendix "A"**.

23. The Monitor's activities described herein and in the Tenth Report were carried out prudently and diligently in accordance with its duties under the CCAA and as prescribed by the Orders granted by this Court in these CCAA Proceedings and were undertaken in the best interests of the OTE Group and its stakeholders.

VI. ACTIVITIES OF THE OTE GROUP

24. The OTE Group's activities since the Tenth Report have included:

- (i) managing relationships with key stakeholders, including RBC, the employees of the OTE Group, and former employees of the OTE Group, in coordination with the Monitor;
- (ii) working with the Monitor to implement procedures to monitor cash flows and corresponding with the Monitor related to its review of payments;
- (iii) managing cash flows and making payments in accordance with the Amended and Restated Initial Order;
- (iv) in consultation with the Monitor, developing the Fifth Extended Cash Flow Forecast (as defined below);
- (v) assisting with the transition of the Whitefish and Tyendinaga blending facilities, and completing the administrative wind-down of the OTE Group, as required;
- (vi) responding to information requests from the Monitor in connection with the Monitor's ongoing investigation to assist with the tracing, investigation and review of missing books and records of the OTE Group; and
- (vii) corresponding with the Monitor and the OTE Group's legal counsel on various matters pertaining to the CCAA Proceedings.

VII. CASH RECEIPTS AND DISBURSEMENTS – APRIL 8, 2024 TO OCTOBER 6, 2024

25. As noted in the Ninth Report, the OTE Group, in consultation with the Monitor, prepared an extended cash flow forecast (the "**Fourth Extended Cash Flow Forecast**") for the period from April 8, 2024, to October 27, 2024, in support of the requested stay extension, representing a forecast of the OTE Group's projected receipts and disbursements during that time-period. The OTE Group continues to co-operate with the Monitor and provide access to their books and records

and disbursements on a weekly basis and has prepared a forecast-to-actual variance analysis regarding the OTE Group's receipts and disbursements.

26. A comparison of the Fourth Extended Cash Flow Forecast to actual results for the 26-week period from April 8, 2024, to October 6, 2024 (the “**Comparison Period**”) is summarized as follows:

| Original Traders Energy Summary of Actual Receipts and Disbursements For the 26-week period from April 8, 2024 – October 6, 2024 In C\$; unaudited | | | |
|---|-------------------|-------------------|--------------------------------|
| | Actual | Forecast | Variance Fav/(Unfav) |
| Receipts | | | |
| Customer collections | 1,365,000 | - | 1,365,000 |
| Tax refunds | 505,224 | 11,000,000 | (10,494,776) |
| Other receipts | 11,710,160 | 10,200,000 | 1,510,160 |
| Total receipts | 13,580,384 | 21,200,000 | (7,619,616) |
| Operating disbursements | | | |
| Purchases | - | - | - |
| Pre-filing payments/deposits | - | - | - |
| Operating expense | 1,075,741 | 481,000 | (594,741) |
| Distributions to lessors | - | - | - |
| Rent and royalties | 161,189 | 253,609 | 92,420 |
| Payroll | 304,762 | 390,000 | 85,238 |
| Professional fees | 1,520,343 | 2,480,000 | 959,657 |
| Tax remittances | 33,016 | - | (33,016) |
| Bank payments | 667,469 | 667,470 | 1 |
| Total operating disbursements | 3,762,520 | 4,272,079 | 509,559 |
| Foreign Exchange | (76,177) | - | (76,177) |
| Net cash flow | 9,741,687 | 16,927,921 | (7,186,234) |
| Opening cash | 15,644,767 | 15,644,767 | - |
| Net cash flow | 9,741,686 | 16,927,921 | (7,186,235) |
| Ending cash | 25,386,453 | 32,572,688 | (7,186,235) |

Note: “Fav/(unfav)” denotes favourable or unfavourable variances against forecast.

27. As shown in the above table, the OTE Group reported a net cash inflow of approximately \$9.7 million over the Comparison Period as compared to a forecasted net cash outflow of approximately \$16.9 million for the same period.

28. Key variances between actual and forecasted results include the following:

- (i) *Tax refunds* – the OTE Group forecasted to collect \$11.0 million in tax refunds during the Comparison Period compared to the \$0.5 million collected. Subsequent to the Comparison

Period, a tax refund in the amount of USD \$8.4 million (or CAD \$11.4 million) was deposited into the OTE Group bank account. The variance described above is primarily due to the delayed receipt of these funds;

- (ii) *Customer collections* – due to the wind-down of the OTE Group’s operations, the Monitor did not forecast any collections on older customer accounts receivable. However, the OTE Group ultimately recovered \$1.4 million of older customer receivables;
- (iii) *Other receipts* – the other receipts consist of: (i) funds received from AirSprint from the sale of private jet fractional ownerships and release of certain deposits held by AirSprint; (ii) funds held from a settlement organized with Lenczner Slaght LLP (in its capacity as counsel to Glenn Page) related to previously disputed proceeds from the sale of assets by Glenn Page; (iii) return of post-filing collateral from the MOF; (iv) proceeds received pursuant to the Lease Termination Settlement Agreements; and (v) accrued interest on certain trust account funds;
- (iv) *Operating expenses* – the higher operating expenses were primarily incurred as a result of (i) expenses incurred in respect of the sale of the Italian Yacht which will be reimbursed from the proceeds of sale; (ii) timing difference from accounts payable payments; and (iii) higher insurance premiums; and
- (v) *Professional fees* – professional fees for the period were lower than expected as a result timing differences regarding accrued professional fees.

29. As a result of the net impact of the above items, the ending cash balance is lower than forecasted as the result of timing differences.

VIII. OTE GROUP’S REQUEST TO EXTEND STAY PERIOD TO APRIL 25, 2025

30. The current Stay Period expires on October 25, 2024. The Monitor, on behalf of the OTE Group, is seeking an extension of the Stay Period to April 25, 2025, to, among other things, advance ongoing asset recovery efforts including but not limited to completing the Italian Yacht sales process and pursuing the remaining U.S. tax refunds.

31. In support of the stay extension, the OTE Group, with the assistance of the Monitor, has prepared a cash flow forecast through and including April 25, 2025 (the “**Fifth Extended Cash Flow**

Forecast”), a copy of which is attached hereto as **Appendix “B”** (along with reports of both management and the Monitor on the Fifth Extended Cash Flow Forecast). The Fifth Extended Cash Flow Forecast is summarized below:

| Original Traders Energy Fifth Extended Cash Flow Forecast For the 29-week period from October 7, 2024 – April 25, 2024 In C\$; unaudited | | Total |
|---|--|-------------------|
| Receipts | | |
| Customer collections | | - |
| Tax refunds | | 11,400,000 |
| Other receipts | | - |
| Total receipts | | 11,400,000 |
| Operating disbursements | | |
| Purchases | | - |
| Pre-filing payments/deposits | | - |
| Operating expense | | 868,000 |
| Rent and royalties | | 105,000 |
| Payroll | | 319,000 |
| Professional fees | | 2,175,000 |
| Tax remittances | | - |
| Bank payments | | 778,714 |
| Total operating disbursements | | 4,245,714 |
| Net cash flow | | 7,154,286 |
| Opening cash | | 25,386,453 |
| Net cash flow | | 7,154,286 |
| Ending cash | | 32,540,739 |

32. The Fifth Extended Cash Flow Forecast indicates that the OTE Group will have sufficient liquidity to fund the costs of the CCAA Proceedings during the extension of the Stay Period, if granted.
33. Furthermore, the extension of the Stay Period will enable the Monitor, on behalf of the OTE Group, to pursue significant asset recoveries, including the recovery of further tax refunds and the completion of the sale of the Italian Yacht. The extension of the Stay Period will also allow the Monitor to complete its investigation of improper and fraudulent payments made for the benefit of the principals of the OTE Group and to pursue recoveries in respect of same.

34. The estimated proceeds related to the Italian Yacht have not been included in the Fifth Extended Cash Flow Forecast given that the discussions with interested parties are either ongoing or have not yet begun, and, as a result, disclosing any estimates may adversely impact any future negotiations.
35. The Monitor is of the view that the extension of the Stay Period is appropriate in the circumstances for the following reasons:
- (i) the Monitor is explicitly authorized to apply to this Court for an extension of the Stay Period pursuant to paragraph 3(e) of the Monitor's Enhanced Powers Order;
 - (ii) the OTE Group, under the supervision of the Court and the Court-appointed Monitor, has acted and continues to act in good faith and with due diligence;
 - (iii) the extension will allow the Monitor, on behalf of the OTE Group, to continue ongoing asset recovery efforts; and
 - (iv) the extension should not materially prejudice any creditor, as the Fifth Extended Cash Flow Forecast demonstrates that the OTE Group is projected to have the funds necessary to continue these CCAA Proceedings while the Monitor continues its asset recovery efforts for the benefit of the OTE Group and its stakeholders.
36. The Monitor does not expect any opposition to the proposed extension of the Stay Period and does not believe the extension of the Stay Period will materially prejudice any creditor or other stakeholder.

IX. ITALIAN YACHT UPDATE

37. As previously discussed in the Tenth Report, the Monitor has obtained a boat broker acceptable to the Mareva Respondents and the Monitor in order to advance the sales process of the Italian Yacht. Furthermore, after undergoing a necessary marine survey, several deficiencies were identified that are required to be repaired prior to the sale of the Italian Yacht.
38. As at the date of this report, the Italian Yacht is currently undergoing these repairs as well as the necessary cleaning in order to prepare the Italian Yacht for marketing during late fall or winter of 2024. The Monitor has been advised by U.S. marine counsel that the fall and winter seasons are typically optimal for yacht sales in Florida.

X. TRANSITION TO BANKRUPTCY

39. Pursuant to the Enhanced Powers Order, the Monitor is authorized and empowered to file an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada)(the “**BIA**”) in respect of any of the entities in the OTE Group (collectively, the “**OTE Group Entities**”, and each individually an “**OTE Group Entity**”). The Enhanced Powers Order also explicitly authorized KPMG to act as trustee in bankruptcy in respect of any OTE Group entity that makes an assignment into bankruptcy (in such capacity, the “**OTE Bankruptcy Trustee**”). A copy of the Enhanced Powers Order is attached hereto as **Appendix “C”**.
40. As discussed in the Monitor’s Seventh Report, the time limited gas licenses and fuel licenses necessary for the OTE Group’s business expired on December 31, 2023. As such, the OTE Group, which had ceased to carry on business before that date, is now no longer able to operate its business on a go-forward basis.
41. Since that date, and as discussed in more detail in prior Monitor’s Reports, the Monitor has been advancing the wind-up of the OTE Group. This has included the sale of the OTE Group’s chattels pursuant to Vehicle Transaction, which was approved by this Court following the Bid Process, and the completion of the Lease Termination Settlement Agreements, which saw the OTE Group turn over two of the three leased premises and return all blending equipment located thereon to the relevant landlords. Given that the OTE Group is no longer operational, most of the OTE Group employees have been terminated by the Monitor.
42. Presently, there are minimal assets remaining in the OTE Group – the only material assets that remain are the Italian Yacht and the lease agreement in respect of the Six Nations blending location (which as noted, is no longer operational). Given that all licenses needed to carry on business have expired, there is no prospect of the OTE Group restarting and continuing any business, nor is a going concern sale possible. Aside from the monetization of the Italian Yacht, the Monitor believes that the only potentially material recoveries will come from pursuing claims against parties that Monitor believes received improper or fraudulent payments from the OTE Group entities, based upon the Monitor’s ongoing investigation.
43. As there is no expectation of preserving a going concern business in respect of the OTE Group, the Monitor expects that, in accordance with the Enhanced Powers Order, it may determine that it is appropriate to file an assignment in respect of certain or all of the OTE Group Entities into bankruptcy to, among other things, complete the wind-up of the OTE Group and facilitate

remaining distributions. The Monitor understands that RBC does not oppose the assignment of the OTE Group into bankruptcy or potentially receiving a distribution within the bankruptcy.

44. Pursuant to the Transition Order, the Monitor seeks to ensure that (i) if appointed as OTE Bankruptcy Trustee, KPMG will have all of the powers and protections granted to the Monitor in these CCAA Proceedings; and (ii) that these CCAA Proceedings shall remain extant until the Monitor brings a motion for the termination of these proceedings and files a termination certificate with the Court. To ensure efficiency, the Transition Order would also allow the Monitor to administratively consolidate the bankrupt estates if bankruptcy assignments are filed on behalf of multiple OTE Group Entities.
45. The Monitor believes that the relief sought pursuant to the Transition Order is in the best interests of the OTE Group and its stakeholders for the following reasons:
- (i) The Monitor has been granted various investigatory powers (pursuant to the Initial Order, the Amended and Restated Initial Order (attached hereto as **Appendix “D”**), and the Enhanced Powers Order, among others) as well as expanded powers over the OTE Group and its business (pursuant to the Enhanced Powers Order), each of which are for the benefit of the OTE Group and its stakeholders. In connection therewith, the Monitor has also been provided with standard protections that allow it to carry out its duties. In order to ensure that the investigation and monetization of assets continues efficiently, the Monitor believes it is necessary and appropriate for all powers and protections granted in these CCAA Proceedings continue in its capacity as OTE Bankruptcy Trustee, if so appointed.
 - (ii) These CCAA Proceedings provide for a stay in favour of the Applicants and the Limited Partnerships. This stay benefits the OTE Group and their stakeholders, and should remain in place through these CCAA Proceedings, as the orders made in the CCAA Proceedings (including *inter alia* in respect of the yacht sale process, the Mareva injunction and the Monitor’s additional powers) continue to apply and are relied upon by the Monitor in connection with its ongoing work to achieve recoveries for creditors.
 - (iii) The Monitor has remaining duties pursuant to these CCAA Proceedings that should be completed for the benefit of the OTE Group’s stakeholders. For example, as discussed, the key remaining asset that needs to be monetized is the Italian Yacht. As noted above, the Monitor was authorized by this Court to conduct a sale process in respect of the Italian

Yacht on July 17, 2024 – that sale process is ongoing and should be completed by the Monitor before these CCAA Proceedings are terminated.

- (iv) The CCAA Proceedings have been recognized in the United States pursuant to Chapter 15 of the United States Bankruptcy Code. The continued recognition of these proceedings in the US will facilitate the sale of the Italian Yacht (which is located in the US).
- (v) The Mareva Order was granted by this Court within the CCAA Proceedings. It is necessary and appropriate that these CCAA Proceedings remain extant so that the Mareva Order continues to have full force and effect in respect of the Mareva Respondents while the Monitor continues its ongoing investigation.

46. Through discussions with the US tax advisor, the Monitor understands that bankruptcy filings by the OTE Group Entities would not prejudice the OTE Group's ability to collect the remaining US tax refunds. The Monitor also does not expect any interference in the progress of the Italian Yacht sales process as a result of an assignment into bankruptcy by any of the OTE Group Entities.

47. There is no prejudice to these CCAA Proceedings remaining extant, or to KPMG being granted the same powers and protections as the Monitor as OTE Bankruptcy Trustee. The Transition Order will ensure that these CCAA Proceedings are not terminated until the Monitor determines its remaining duties have been completed and will therefore give the Monitor the flexibility necessary to file a bankruptcy application in respect of any of the OTE Group Entities (as already authorized by the Enhanced Powers Order) when the Monitor determines necessary as part of the OTE Group's ongoing wind-up. KPMG will continue to report to this Court as and when necessary so stakeholders are apprised of its progress monetizing the remaining assets and its continued investigation.

48. Accordingly, the Monitor is of the view that the Transition Order is necessary and appropriate in the circumstances.

XI. MONITOR'S RECOMMENDATIONS

49. For the reasons set out in this Eleventh Report, the Monitor is of the view that the relief sought in Stay Extension and Activity Approval Order and the Transition Order is necessary and appropriate in the circumstances. As such, the Monitor respectfully requests that this Court issue the Stay Extension and Activity Approval Order and the Transition Order in the forms appended to the Monitor's Motion Record.

All of which is respectfully submitted this 17th day of October 2024.

KPMG Inc.
In its capacity as Monitor of
OTE Group
And not in its personal or corporate capacity

Per:



Paul van Eyk
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL
President



Duncan Lau
CPA, CMA, CIRP
Senior Vice President

Appendix “A”

ORIGINAL TRADERS ENERGY LTD. ET AL.

**TENTH REPORT OF KPMG INC.,
IN ITS CAPACITY AS MONITOR**

September 4, 2024

TABLE OF CONTENTS

| | | |
|-------|---|----|
| I. | INTRODUCTION | 1 |
| II. | PURPOSE OF REPORT | 1 |
| III. | TERMS OF REFERENCE..... | 2 |
| IV. | BACKGROUND..... | 2 |
| V. | ACTIVITIES OF THE MONITOR. | 6 |
| VI. | ACTIVITIES OF THE OTE GROUP..... | 7 |
| VII. | BLENDING EQUIPMENT AND TYENDINEGA AND WHITEFISH LEASES..... | 8 |
| VIII. | SEALING | 12 |
| IX. | MONITOR’S CONTINUED INVESTIGATION | 13 |
| X. | ITALIAN YACHT UPDATE | 13 |
| XI. | MONITOR’S RECOMMENDATIONS..... | 14 |

APPENDICES

Appendix “A” – Tyendinaga Lease Termination Agreement (payment amount redacted)

Appendix “B” – Whitefish Lease Termination Agreement (payment amount redacted)

CONFIDENTIAL APPENDICES

Confidential Appendix “1” – Unredacted Tyendinaga Lease Termination Agreement

Confidential Appendix “2” – Unredacted Whitefish Lease Termination Agreement

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO INC.**

TENTH REPORT OF KPMG INC.
In its capacity as Monitor of the OTE Group

September 4, 2024

I. INTRODUCTION

1. On January 30, 2023 (the “**Filing Date**”), Original Traders Energy Ltd. and 2496750 Ontario Inc. (together, the “**Applicants**”) were granted relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). The relief granted under the Initial Order (as amended and restated on February 9, 2023, the “**Amended and Restated Initial Order**”) included a stay of proceedings in favour of the Applicants; the appointment of KPMG Inc. (“**KPMG**”) as the monitor in these proceedings (in such capacity, the “**Monitor**”); and other related relief. These proceedings under the CCAA are referred to herein as the “**CCAA Proceedings**”.
2. OTE Logistics LP and Original Traders Energy LP (together, the “**Limited Partnerships**”) are not Applicants in this proceeding. However, the Initial Order and the Amended and Restated Initial Order extended the same protections granted to the Applicants to the Limited Partnerships, on the grounds that the Limited Partnerships are related to and carry on operations that are integral to the business of the Applicants. The term “**OTE Group**” throughout this report refers to the Applicants and Limited Partnerships collectively.
3. KPMG has filed various reports with the Court in these proceedings. Copies of materials filed with the Court and other materials pertaining to the CCAA Proceedings, including all reports issued by the Monitor in these proceedings, are available on the Monitor’s website: <http://home.kpmg/ca/OTEGroup> (the “**Monitor’s Website**”).

II. PURPOSE OF REPORT

4. The purpose of this Tenth Report of the Monitor (the “**Tenth Report**”) is to provide information pertaining to:
 - (i) certain discussions between the Monitor and the landlords of two of the leased fuel blending locations that have resulted in settlement (subject to Court approval) of the disputes between the OTE Group and the Tyendinaga Landlord and the Whitefish Landlord in relation to the leased premises and the Blending Equipment thereon (as such terms are defined below);
 - (ii) an update on the Monitor’s activities since its most recent report to this Court;
 - (iii) an update in respect of the Monitor’s ongoing investigation;
 - (iv) an update in respect of the Yacht Sales Process (as defined herein); and

- (v) the Monitor’s basis for bringing a motion seeking an order (the “**Lease Termination Approval Order**”), among other things:
 - (a) approving the Tyendinaga Lease Termination Agreement (as defined below);
 - (b) approving the Whitefish Lease Termination Agreement (as defined below);
 - (c) vesting the Blending Equipment (as defined below) in the respective landlords; and
 - (d) sealing the Confidential Appendices to this Tenth Report pending further Order of this Court.

III. TERMS OF REFERENCE

- 5. In preparing the Tenth Report, the Monitor has relied on information and documents provided by the OTE Group and their advisors, including unaudited financial information, declarations, in addition to information and documents obtained from third parties that responded to the Monitor’s requests for information and other information obtained by the Monitor (collectively, the “**Information Received**”). In accordance with industry practice, except as otherwise described in the Second Report of the Monitor dated March 13, 2023 (the “**Second Report**”), KPMG has reviewed the Information Received for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information Received in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information Received.
- 6. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND

- 7. Detailed information with respect to the OTE Group’s business, operations, products and causes of insolvency is provided in the Monitor’s pre-filing report dated January 30, 2023. Since the OTE Group’s filing, this Court has granted several Orders, and various materials have been filed in connection therewith. The information below only provides the background on these proceedings relevant for this Tenth Report. All Orders granted and materials filed in these proceedings can be accessed on the Monitor’s Website.

8. On March 15, 2023, the Court granted a Mareva injunction as part of an Order (the “**Injunctive Order**”) which restrained Glenn Page (“**Page**”), Mandy Cox (“**Cox**”) and 2658658 Ontario Inc. (“**265**”, and collectively, the “**Mareva Respondents**”) from selling, removing, dissipating, alienating, transferring, assigning, encumbering or similarly dealing with a seventy foot yacht from the Italian shipbuilder Azimut Benetti, named “Cuz We Can” (the “**Italian Yacht**”), more particularly described in Schedule “A” of the Injunctive Order. On March 21, 2023 and March 28, 2023, this Court issued certain endorsements related to the Injunctive Order.
9. On July 17, 2023, this Court granted the Yacht Sale and AirSprint Proceeds Order, among other things, (i) authorizing and directing the Monitor to conduct a sale process for the Italian Yacht (the “**Yacht Sale Process**”); and (ii) directing AirSprint to remit to the Monitor the US\$5,482,779.85 and any accrued interest thereon (the “**AirSprint Proceeds**”) that was then held in trust by AirSprint on account of net proceeds and receipts from the sale of property including aircraft interests that were purchased or financed from funds sent to AirSprint by any OTE Group entity or affiliate thereof. The Yacht Sale and AirSprint Proceeds Order also directed that the AirSprint Proceeds be held in trust pending judicial determination of the claims and entitlements to such proceeds as between the OTE Group entities and the Mareva Respondents or any of them.
10. On October 12, 2023, the Court issued the following:
 - (i) an Order (the “**Monitor’s Enhanced Powers and Bid Process Approval Order**”), among other things, providing the Monitor with enhanced powers in connection with the business and property of the OTE Group, and approving an amended bid process for the sale of the assets of the OTE Group to be carried out by the Monitor (the “**Bid Process**”); and
 - (ii) an Order, among other things, extending the stay period to April 26, 2024, approving certain amendments to the claims procedure of the OTE Group, and approving the activities of the Monitor.
11. After uncovering evidence that substantial payments were improperly and fraudulently made, and assets including cash improperly and fraudulently transferred, by the OTE Group to or for the benefit of Page, Cox, 265, and others, the Monitor filed its sixth report dated November 8, 2023 (the “**Sixth Report**”) in support of a motion (the “**Mareva Motion**”) for an Order (the “**Mareva Order**”) among other things:

- (i) extending the provisions of the Injunctive Order to apply to all of the assets of the Mareva Respondents, wheresoever located;
 - (ii) expanding the Injunctive Order to restrain the Mareva Respondents and anyone else acting on their behalf or in conjunction with any of them directly or indirectly, and all other persons to whom notice of such an Order may be given, from selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any of the Mareva Respondents' assets, including without limitation real property, bank accounts, insurance policies, annuities and other assets held by them or by any other person or entity on their behalf, wherever so located, without leave of this Court; and
 - (iii) expanding the Injunctive Order to require the Mareva Respondents to each prepare and provide to the Monitor a sworn affidavit within ten days describing the nature, value and location of their assets wheresoever located, whether in their own name or not and whether solely or jointly owned or whether held in trust for any other party.
12. The Monitor subsequently filed the supplement to the Sixth Report dated December 4, 2023 (the **"Supplement to the Sixth Report"**) providing further details supporting its request for the Mareva Order.
13. Following a hearing on December 21, 2023, the Court ordered a broad Mareva injunction on January 16, 2024 against Page and 265 in respect of all of their worldwide assets and declined to order the broader Mareva injunction against Cox but instead ordered that Cox provide a statement of her worldwide assets (the **"Mareva Decision"**). Substantially all other terms of the proposed Mareva Order sought by the Monitor were approved by the Court except for certain modifications required, including in respect of a cost arrangement between the Monitor, Page and Cox. In accordance with the Mareva Decision, the Monitor examined Page on February 28, 2024 and March 13, 2024. The Order in respect of the Mareva Decision was subsequently issued on February 28, 2024.
14. On December 22, 2023, counsel for the Monitor, counsel for the Mareva Respondents, and counsel for OTE USA LLC (**"OTE USA"**) attended a scheduling case conference before Justice Kimmel. OTE USA requested this Court schedule a motion (the **"OTE USA Motion"**) authorizing it to, among other things, (i) engage in discussions with the creditors of the OTE Group to discuss a proposed CCAA plan of arrangement (the **"Proposed Restructuring Plan"**), the terms of which

were set out in a term sheet and (ii) engage with licensing authorities to reinstate the licenses of the OTE Group and/or negotiate new licenses in support of the Proposed Restructuring Plan.

15. Following discussions facilitated by the Monitor with the Ministry of Finance for Ontario and the Canada Revenue Agency, which discussions ultimately led to both entities confirming that they would not support the Proposed Restructuring Plan, OTE USA withdrew the OTE USA Motion on February 27, 2024.

16. On January 30, 2024, the Court issued the following Orders:

- (i) an approval and vesting Order, among other things, approving the sale transaction of the OTE Group's vehicles contemplated by an agreement of purchase and sale between the Monitor, on behalf of the OTE Group, and Allstar Auctions Inc. dated January 11, 2024 (the "**Vehicle Transaction**"); and
- (ii) an Order, among other things, approving certain key employee retention plan payments and sealing certain confidential appendices to the Monitor's seventh report dated January 22, 2024.

17. The Monitor issued its eighth report dated March 18, 2024 (the "**Eighth Report**"). As set out in detail in the Eighth Report, the Monitor sought two Orders: an Order approving a distribution from the proceeds of the Vehicle Transaction (the "**Distribution Order**") and an Order approving a settlement between the Monitor, on behalf of the OTE Group, and AirSprint, and granting certain related releases (the "**AirSprint Funds Order**"). The Distribution Order was granted by the Court, but the relief sought in the AirSprint Funds Order was adjourned to a later date.

18. On April 22, 2024, the Court issued an Order (the "**Stay Extension, WEPPA, and Activity Approval Order**"), among other things:

- (i) approving the extension of Stay Period (as defined therein) to October 25, 2024, inclusive;
- (ii) declaring that pursuant to section 5(5) of the Wage Earner Protection Program Act (Canada), SC 2005, c 47, s 1 ("**WEPPA**"), the OTE Group and their collective former employees meet the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-222 and are individuals to whom the WEPPA applies as of the date of this Order;

- (iii) authorizing the Monitor to invest \$10 million of OTE Group funds into a one year redeemable Guaranteed Investment Certificate (“GIC”) and authorizing the Monitor to execute the documentation necessary to ensure that the security of the Royal Bank of Canada (“RBC”) applied to those funds; and
- (iv) approving the Sixth Report; the Supplement to the Sixth Report; the Seventh Report; the Eighth Report; and the Monitor’s ninth report dated April 16, 2024 (filed in connection with that motion), and the activities and conduct of the Monitor in relation to the OTE Group and the CCAA Proceedings as set out therein.

19. The Court also issued a revised form of AirSprint Funds Order on the same date that had certain revisions to the language of the release in favour of AirSprint.

V. ACTIVITIES OF THE MONITOR

20. Since the issuance of the Stay Extension, WEPPA, and Activity Approval Order, the Monitor has engaged in various activities for the benefit of the OTE Group and its stakeholders, including:

- (i) maintaining the Monitor’s Website where all court materials and other relevant documents pertaining to the CCAA Proceedings are available in electronic form;
- (ii) working with the OTE Group to implement procedures to monitor cash flows and making payments in accordance with the Amended and Restated Initial Order;
- (iii) investing OTE Group funds (\$8.0 million) in a GIC with RBC in order to accrue interest and maintain a segregated balance in favour of RBC, in its capacity as the sole secured lender to the OTE Group;
- (iv) investing settlement funds received from Lenczner Slaght LLP (~\$900,000) in a GIC in order to accrue interest on the amount received;
- (v) administering WEPPA and corresponding with Service Canada;
- (vi) responding to enquiries and engaging in discussions with creditors, former employees, governmental authorities, including the CRA and the MOF, and other stakeholders in connection with the CCAA Proceedings;
- (vii) progressing the sale process for the Italian Yacht (as discussed in further detail below);

- (viii) progressing discussions with the landlords in respect of the fuel blending locations (as discussed in further detail below);
- (ix) progressing discussions with U.S. counsel and other advisors on the outstanding U.S. tax refunds;
- (x) progressing the investigation in respect of the improper and fraudulent payments made by Page, Cox, 265, and others;
- (xi) corresponding with the OTE Group, its legal counsel, and the Monitor's legal counsel on various matters pertaining to the CCAA Proceedings; and
- (xii) reviewing materials filed with the Court in respect of the CCAA Proceedings; and dealing with various day-to-day issues impacting the OTE Group in the course of these proceedings.

21. The Monitor's activities were carried out prudently and diligently in accordance with its duties under the CCAA and as prescribed by the Orders granted by this Court in these CCAA Proceedings, and were undertaken in the best interests of the OTE Group and its stakeholders.

VI. ACTIVITIES OF THE OTE GROUP

22. The OTE Group's activities since the Ninth Report have included:

- (i) managing relationships with key stakeholders, including RBC, the employees of the OTE Group, and former employees of the OTE Group, in coordination with the Monitor;
- (ii) collecting outstanding customer receivables;
- (iii) working with the Monitor to implement procedures to monitor cash flows and corresponding with the Monitor related to its review of payments;
- (iv) managing cash flows and making payments in accordance with the Amended and Restated Initial Order;
- (v) filing monthly tax returns for compliance purposes;
- (vi) completing the administrative wind-down of the OTE Group, as required;

- (vii) responding to information requests from the Monitor in connection with the Monitor's ongoing investigation to assist with the tracing, investigation and review of missing books and records of the OTE Group; and
- (viii) corresponding with the Monitor and the OTE Group's legal counsel on various matters pertaining to the CCAA Proceedings.

VII. BLENDING EQUIPMENT AND TYENDINEGA AND WHITEFISH LEASES

23. The OTE Group used immovable fuel blending equipment (the "**Blending Equipment**") in its operations. The Blending Equipment is located underground, beneath three leased blending locations on First Nations reserve lands in Tyendinaga, Whitefish, and Six Nations (the "**Fuel Blending Locations**"). In discussions with the Monitor, the landlords of the Fuel Blending Locations asserted that the Blending Equipment constitute fixtures on the land, and is not the property of the OTE Group. Because it is immovable and underground, the Blending Equipment could not practically be sold separately without finding a party willing to assume the leases in the respective Fuel Blending Locations.
24. The Bid Process, which listed the chattels of the OTE Group for sale, therefore did not include the Blending Equipment for sale, nor did it list those leasehold interests in the Fuel Blending Locations. However, the Bid Process did not preclude any person from expressing an interest in the leasehold interests or the blending equipment, and provided that the Monitor would use its best reasonable efforts to arrange for discussions between interested parties and applicable landlords to the extent such expressions of interest were received. The Bid Process also provided that the Monitor could make no assurances as to the assignability of any interests in the OTE Group to leased premises or fixtures claimed by any landlord, lessor or licensor.
25. As discussed in the Seventh Report, in accordance with the Bid Process, four (4) expressions of interest (the "**Blending Equipment Expressions of Interest**") were received for the Blending Equipment, all from third parties unrelated to the OTE Group. The completion of any transaction in respect of any of the Blending Equipment, among other things, was conditional on the negotiation of acceptable lease agreements with the landlords of the leased premises in respect of the Fuel Blending Locations (the "**Blending Location Landlords**"). The Monitor was also informed that any new lease in respect of the Whitefish blending location would require band council approval.

26. Prior to the withdrawal of the OTE USA Motion, the Monitor did not progress any negotiations with the Blending Location Landlords or otherwise further the Blending Equipment Expressions of Interest pending the hearing of the OTE USA Motion.
27. Following the withdrawal of the OTE USA Motion, the Monitor reached out to the Blending Location Landlords to discuss the Blending Equipment Expressions of Interest. However, neither the Tyendinaga Landlord nor the Whitefish Landlord were agreeable to leasing their respective premises (the “**Tyendinaga Premises**” and the “**Whitefish Premises**”, respectively) on the terms proffered. Discussions with the parties who expressed an interest in the Fuel Blending Locations and/or the Blending Equipment did not lead to any executable agreements. During this time, the OTE Group continued to pay monthly rent.
28. As discussed in greater detail in the Ninth Report, fuel blending operations at the Tyendinaga Premises and Whitefish Premises were discontinued in August and September 2023, respectively, and the fuel and gas licenses in respect of both premises expired on December 31, 2023. Given that operations have ceased (and are no longer licensed), a “going concern” sale through which operations would be resumed at either premises is not possible.
29. As a result of the above considerations and issues, the Monitor determined that it was in the best interests of the OTE Group and its stakeholders to pursue a cost-effective termination of the lease agreements in respect of the Fuel Blending Locations and to settle all disputes with the Blending Location Landlords regarding the lease agreements and the Blending Equipment.

Tyendinaga Blending Location

30. On July 19th, 2024, the Monitor, on behalf of the OTE Group, and the landlord of the Tyendinaga blending location (the “**Tyendinaga Landlord**”) entered into an agreement terminating the lease of the Tyendinaga blending location (the “**Tyendinaga Lease Termination Agreement**”). A redacted copy of the Tyendinaga Lease Termination Agreement is attached hereto as **Appendix “A”**, and an unredacted copy of the Tyendinaga Lease Termination Agreement is attached hereto as **Confidential Appendix “1”**.
31. The key terms of the Tyendinaga Lease Termination Agreement are as follows:
- (i) The OTE Group and the Tyendinaga Landlord agreed that the Tyendinaga lease agreement and any related or ancillary agreements (collectively, the “**Leases**”) shall be terminated and

neither the Tyendinaga Landlord nor the OTE Group shall have any further rights, liabilities or obligations to the other in respect of the Leases;

- (ii) Effective August 1, 2024, the OTE Group would surrender the Tyendinaga Premises to the Tyendinaga Landlord and the Tyendinaga Landlord would accept the surrender of the Tyendinaga Premises in full and final satisfaction of all claims of the Tyendinaga Landlord and acknowledged and agreed that it is not entitled to any further payment of rent, additional rent, damages or other amounts from the OTE Group or the Monitor;
- (iii) The Tyendinaga Landlord, in consideration for the purchase of the OTE Group's interests in the Blending Equipment and full and final settlement of the disputes between the Landlord and the OTE Group, agreed to pay the Monitor, on behalf of the OTE Group, an amount (the "**Tyendinaga Payment**") that the Monitor is seeking to seal. The Tyendinaga Payment has been received and is being held in trust by the Monitor pending this Court's approval of the Tyendinaga Lease Termination Agreement; and
- (iv) The Monitor shall seek an order approving the Tyendinaga Lease Termination Agreement. Once the order is issued, the Tyendinaga Lease Termination Agreement shall become effective and the Monitor will remit the Tyendinaga Payment to the OTE Group. Should this Court decline to issue the Lease Termination Approval Order, the Tyendinaga Landlord, the Monitor and the OTE Group will be released from any or all obligations under the Tyendinaga Lease Termination Agreement, and the Monitor shall return the Tyendinaga Payment to the Tyendinaga Landlord.

32. Subject to the issuance of the Lease Termination Approval Order, the Tyendinaga Landlord has assumed responsibility of the Tyendinaga blending location effective August 1, 2024, and has taken possession on that date for such purpose.

Whitefish Blending Location

33. On August 29, 2024, the Monitor, on behalf of the OTE Group, and the landlord of the Whitefish blending location (the "**Whitefish Landlord**") entered into an agreement terminating the lease of the Whitefish blending location (the "**Whitefish Lease Termination Agreement**"). A redacted copy of the Whitefish Lease Termination Agreement is attached hereto in **Appendix "B"** and an unredacted copy of the Whitefish Lease Termination Agreement is attached hereto as **Confidential Appendix "2"**.

34. The terms of the Whitefish Lease Termination Agreement are as follows:

- (i) The Whitefish Landlord, in exchange for the mutual releases set out in the Whitefish Lease Termination Agreement and in consideration for the purchase of the OTE Group's interests in the Blending Equipment and full and final settlement of the disputes between the Whitefish Landlord and the OTE Group regarding the ownership of the Blending Equipment, agrees to pay the Monitor, on behalf of the OTE Group, a confidential amount and to reimburse the payment of any rent paid to the Whitefish Landlord by the Monitor, on behalf of the OTE Group, for and after the month of July 2024 (collectively, the **"Whitefish Payment"**). The Monitor expects to receive the Whitefish Payment in trust shortly. The Monitor is seeking to seal the amount of the Whitefish Payment. The Whitefish Payment shall be held in trust by the Monitor pending this Court's approval and the Monitor's execution of the Whitefish Lease Termination Agreement in accordance with its terms;
- (ii) The Monitor is not aware of any remaining warranties on the Blending Equipment and the Whitefish blending location. However, to the extent any warranties exist for the Blending Equipment at the Whitefish blending location, the Whitefish Landlord's purchase of the Blending Equipment from the Monitor on behalf of the OTE Group shall include the purchase of any remaining warranties for the Blending Equipment at the Whitefish blending location; and
- (iii) The Monitor shall seek an order approving the Whitefish Lease Termination Agreement and transferring the OTE Group's interests in the Blending Equipment at the Whitefish Premises to the Whitefish Landlord, free and clear of any encumbrances. Once the Order is issued, the Whitefish Lease Termination Agreement shall become effective, and the Monitor will remit the Whitefish Payment to the OTE Group. Should this Court decline to issue the order, the Whitefish Landlord, the Monitor and the OTE Group will be released from any or all obligations under the Whitefish Lease Termination Agreement, and the Monitor shall return the Whitefish Payment to the Whitefish Landlord.

35. Subject to the issuance of the Lease Termination Approval Order, the Whitefish Landlord assumed responsibility of the Whitefish blending location effective September 1, 2024, and took possession on that date for such purpose.

Conclusions Regarding Lease Termination Agreements

36. The Monitor is of the view that both the Tyendinaga Lease Termination Agreement and the Whitefish Lease Termination Agreement are appropriate in the circumstances. As noted above, despite soliciting expressions of interest in respect of the Blending Equipment and related leases and engaging in discussions with the landlords and potential purchasers in respect of same, no agreement was ultimately reached with a third party for the purchase of such equipment or the assumption of the leases (given, among other things, the uncertainty as to the ownership of such equipment). The settlement agreements represent the only opportunity for the OTE Group to achieve a fair and reasonable value for the Blending Equipment, ensure that rent is no longer paid in respect of non-operational premises, and provide finality by ensuring that the landlords cannot pursue any claims against the OTE Group in respect of the leases or such equipment. The Monitor does not believe any stakeholders are prejudiced by the approval of the Lease Termination Agreements, or the vesting of the OTE Group's interests in the Blending Equipment in the respective landlords free and clear of claims or encumbrances – the only remaining secured lender of the OTE Group, RBC, has security over the funds invested in the GIC, which are sufficient to satisfy the amounts owing thereto. The Monitor therefore believes that agreements are in the best interests of the OTE Group and their stakeholders.

VIII. SEALING

37. The Monitor seeks to temporarily seal the amounts paid pursuant to the Lease Termination Agreements in Confidential Appendices 1 and 2 (together, the “**Confidential Appendices**”). As noted above, the redacted Lease Termination Agreements have been filed publicly with this Report, in each case with the only redaction applied being the amounts paid by the respective landlords.
38. The disclosure of this information could prejudice the Monitor's ability to maximize value for stakeholders by hindering its ability to pursue alternate transactions in the event that the requested order is not issued by the Court or in the event that the transactions contemplated by the Tyendinaga Lease Termination Agreement and the Whitefish Lease Termination Agreement do not close. The information to be sealed is limited to the amount paid, and the information will only be kept from the public record for a limited time (until the closing of the sales of the Blending Equipment, which should occur shortly after the issuance of the Lease Termination Approval Order). In the circumstances, there is no reasonable alternative to sealing, and the benefits of sealing outweigh the deleterious effects. The Monitor therefore believes that the sealing request is necessary and proportionate in the circumstances.

IX. MONITOR'S CONTINUED INVESTIGATION

39. As detailed in the Sixth Report and the Supplement to the Sixth Report, the Monitor is continuing its review of suspicious transaction and payments, including reviewing further information and documents in connection therewith. The Monitor will provide a further update to the Court in the future as to additional steps and recommendations in connection therewith.

X. ITALIAN YACHT UPDATE

40. As detailed in the Second Report, the Monitor understands that 265 purchased the Italian Yacht from Pride Marine substantially using funds wired directly from the OTE Group's bank accounts, and that 265 caused OTE Logistics to guarantee a chattel mortgage held by Essex Lease Financial Corporation ("**Essex**"), secured on the Italian Yacht.
41. In the course of its investigations, the Monitor received information from Pride Marine indicating that approximately USD \$3,218,500 in funds had been transferred from the OTE Group (including Gen7 Fuel Management and OTE) bank accounts to fund the purchase of the Italian Yacht by 265 from Pride Marine.
42. As previously discussed in the Sixth Report, the Monitor commenced the Yacht Sale Process after the issuance of the Yacht Sale and AirSprint Proceeds Order. As noted therein, the Monitor had not formally engaged a boat dealer or broker (a "**Boat Broker**") in respect of the Italian Yacht upon becoming aware of certain legal issues with respect to unpaid duties surrounding the Italian Yacht that would prohibit its sale in the United States to U.S. residents. The Monitor retained U.S. marine counsel to investigate the unpaid duties and was advised by same that the payment of these duties will expedite the Italian Yacht Sale Process. The Monitor's Sixth Report also noted that the Monitor had obtained new insurance in respect of the Italian Yacht.
43. As at the date of this report, the Monitor has obtained a Boat Broker acceptable to the Mareva Respondents, as well as arranged the payment by the OTE Group of the customs duty and applicable fees in connection with the Yacht Sale Process, which will be reimbursed to the OTE Group out of the proceeds of sale after payment of the Boat Broker's commission.
44. The Italian Yacht was also required to undergo a marine survey in order to progress the Italian Yacht Sale Process. During this process, several deficiencies were identified that were required to be rectified. The Monitor, through U.S. marine counsel, has contracted for the completion of the necessary repairs. The Italian Yacht is currently undergoing these repairs as well as the necessary

cleaning in order to prepare the Italian Yacht for marketing during fall 2024. The Monitor has been advised by U.S. marine counsel that the fall and winter seasons are typically optimal for yacht sales in Florida.

XI. MONITOR'S RECOMMENDATIONS

45. For the reasons set out in this Tenth Report, the Monitor is of the view that the relief sought in Lease Termination Approval Order is necessary and appropriate in the circumstances. As such, the Monitor respectfully requests that this Court issue the Lease Termination Approval Order in the form appended to the Monitor's Motion Record.

All of which is respectfully submitted this 4th day of September 2024.

KPMG Inc.
In its capacity as Monitor of
Original Traders Energy Group
And not in its personal or corporate capacity

Per:



Paul van Eyk
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL
President



Duncan Lau
CPA, CMA, CIRP
Senior Vice President

Appendix “B”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO INC.
(collectively the "Applicants")**

**MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash flow of Original Traders Energy Ltd. and 2496750 Ontario Inc. (collectively referred to herein as "**OTE Group**" or the "**Applicants**") prepared as of the 16th day of October 2024, consisting of the period from October 7, 2024 to April 25, 2025 (the "**Fifth Extended Cash Flow Forecast**"), has been prepared by management of the Applicants, in consultation with the Monitor for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Fifth Extended Cash Flow Forecast.

Our review and consultation consisted of inquiries, analytical procedures and discussions related to information supplied by management and employees of the Applicant. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Fifth Extended Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Fifth Extended Cash Flow Forecast.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Fifth Extended Cash Flow Forecast;
- b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Fifth Extended Cash Flow Forecast, given the hypothetical assumptions; or
- c) the Fifth Extended Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Fifth Extended Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Fifth Extended Cash Flow Forecast will be achieved.

The Fifth Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes thereto and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 16th day of October 2024.

KPMG Inc.
In its capacity as Monitor of
Original Traders Energy Group
And not in its personal or corporate capacity

Per:



Paul van Eyk
CPA, CA, CIRP, IFA, Fellow of INSOL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO INC.
(collectively the "Applicants")**

**MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)**

The management of Original Traders Energy Ltd. and 2496750 Ontario Inc. (collectively referred to herein as "**OTE Group**" or the "**Applicants**") have developed the assumptions and prepared the attached statement of projected cash flow as of the 16th day of October 2024, consisting of the period from October 7, 2024 to April 25, 2025 (the "**Fifth Extended Cash Flow Forecast**").

The hypothetical assumptions are reasonable and consistent with the purpose of the Fifth Extended Cash Flow Forecast described in the notes therein, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Fifth Extended Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

Since the Fifth Extended Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The Fifth Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes therein, using the probable and hypothetical assumptions set out therein. Consequently, readers are cautioned that the Fifth Extended Cash Flow Forecast may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 16th day of October 2024.

**Original Traders Energy Ltd. and 2496750 Ontario
Inc.**



Scott Hill
President

| Original Traders Energy | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------------|-------|----------|----------|----------|---------|----------|----------|----------|---------|---------|----------|----------|----------|--------|---------|---------|---------|--------|--------|---------|---------|--------|--------|---------|---------|---------|--------|---------|---------|---------|--------|
| Fifth Extended Cash Flow Forecast | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| In Thousands C\$, unaudited | Notes | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 18 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | Total |
| | | 10/13/24 | 10/20/24 | 10/27/24 | 11/3/24 | 11/10/24 | 11/17/24 | 11/24/24 | 12/1/24 | 12/8/24 | 12/15/24 | 12/22/24 | 12/29/24 | 1/6/25 | 1/12/25 | 1/19/25 | 1/26/25 | 2/2/25 | 2/9/25 | 2/16/25 | 2/23/25 | 3/2/25 | 3/9/25 | 3/16/25 | 3/23/25 | 3/30/25 | 4/6/25 | 4/13/25 | 4/20/25 | 4/27/25 | |
| Receipts | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Customer collections | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| 2 | | 11,400 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 11,400 |
| Tax refunds | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Other receipts | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Total receipts | | 11,400 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 11,400 |
| Operating disbursements | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Purchases | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Pre-filing payments/deposits | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Operating expense | 3 | 18 | 18 | 18 | 84 | 18 | 18 | 74 | 18 | 18 | 18 | 18 | 74 | 18 | 18 | 18 | 74 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 74 | 18 | 18 | 18 | 18 | 868 |
| 4 | | - | - | - | 18 | - | - | 18 | - | - | - | - | 18 | - | - | - | 18 | - | - | - | 18 | - | - | - | - | 18 | - | 18 | - | - | 105 |
| Rent and royalties | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| 5 | | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 319 |
| Payroll | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| 6 | | - | 200 | - | 200 | - | 200 | - | 150 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 143 | - | 2,175 |
| Professional fees | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Tax remittances | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| 7 | | 111 | - | - | 111 | - | - | - | - | 111 | - | - | - | - | 111 | - | - | - | 111 | - | - | - | 111 | - | - | - | - | 111 | - | - | 779 |
| Bank payments | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Total operating disbursements | | 140 | 229 | 29 | 313 | 140 | 229 | 29 | 253 | 140 | 172 | 29 | 172 | 103 | 283 | 29 | 172 | 103 | 283 | 29 | 172 | 103 | 283 | 29 | 172 | 29 | 245 | 140 | 172 | 29 | 4,246 |
| Net cash flow | | 11,260 | (229) | (29) | (313) | (140) | (229) | (29) | (253) | (140) | (172) | (29) | (172) | (103) | (283) | (29) | (172) | (103) | (283) | (29) | (172) | (103) | (283) | (29) | (172) | (29) | (245) | (140) | (172) | (29) | 7,154 |
| Opening cash | | 25,386 | 36,646 | 36,417 | 36,388 | 36,076 | 35,935 | 35,706 | 35,677 | 35,425 | 35,285 | 35,113 | 35,084 | 34,913 | 34,810 | 34,527 | 34,498 | 34,327 | 34,224 | 33,942 | 33,913 | 33,741 | 33,639 | 33,356 | 33,327 | 33,155 | 33,126 | 32,881 | 32,741 | 32,570 | 25,386 |
| Net cash flow | | 11,260 | (229) | (29) | (313) | (140) | (229) | (29) | (253) | (140) | (172) | (29) | (172) | (103) | (283) | (29) | (172) | (103) | (283) | (29) | (172) | (103) | (283) | (29) | (172) | (29) | (245) | (140) | (172) | (29) | 7,154 |
| Ending cash | | 36,646 | 36,417 | 36,388 | 36,076 | 35,935 | 35,706 | 35,677 | 35,425 | 35,285 | 35,113 | 35,084 | 34,913 | 34,810 | 34,527 | 34,498 | 34,327 | 34,224 | 33,942 | 33,913 | 33,741 | 33,639 | 33,356 | 33,327 | 33,155 | 33,126 | 32,881 | 32,741 | 32,570 | 32,641 | 32,641 |

**Original Traders Energy Group
Fifth Extended Cash Flow Forecast
Notes and Summary of Assumptions**

**In the Matter of the CCAA Proceedings of Original Traders Energy Ltd. and 2496750 Ontario Inc.
(collectively the “Applicants”)**

Disclaimer

In preparing this cash flow forecast (the “**Fifth Extended Cash Flow Forecast**”), the Applicants have relied upon unaudited financial information and have not attempted to further verify the accuracy or completeness of such information. Since the Fifth Extended Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Fifth Extended Cash Flow Forecast period will vary from the Fifth Extended Cash Flow Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty, or other assurance that any of the estimates, forecasts or projections will be realized.

The Fifth Extended Cash Flow Forecast is presented in Canadian dollars. All defined terms that are not otherwise defined herein are to have the same meaning ascribed to them in the Eleventh report of the Monitor dated October 16, 2024 (the “**Eleventh Report**”).

Note 1 Purpose of the Fifth Extended Cash Flow Forecast

The purpose of the Fifth Extended Cash Flow Forecast is to present the estimated cash receipts and disbursements of the Applicants for the period from October 7, 2024 to April 25, 2025 (the “**Forecast Period**”), in respect of its proceedings under the CCAA. The Fifth Extended Cash Flow Forecast has been prepared by management of OTE Group (“**Management**”), in consultation with the Monitor based on available financial information at the date of the Eleventh Report. Readers are cautioned that this information may not be appropriate or relied upon for any other purpose.

Note 2 U.S. Tax Refunds

These receipts relate to the collection of U.S. tax refunds.

Note 3 Operating Expenses

Operating expenses are comprised of general business expenses, including insurance, utilities, general and administrative, among others.

Note 4 Rent and Royalties

These disbursements represent rental payments for the Applicant’s leased Six Nations facility. Rental payments include base rent and other costs provided for in the respective leases. Rent is forecasted based on historical run-rates and paid on the first day of each month. There are no Royalties forecasted to be paid in the Forecast Period.

Note 5 Payroll

Payroll expenses include salaries and wages, payroll taxes and remittances, accrued vacation, and employee benefits paid to OTE Group Employees. Payroll expenses are forecasted based on current headcount levels (mainly for security personnel) and are paid weekly.

Note 6 Professional Fees

Professional fees include payments to the Applicant’s legal counsel, the Monitor, and the Monitor’s legal counsels (Canadian and U.S.).

Note 7 Bank Payments

Bank payments represent lease payments made to the secured lender, Royal Bank of Canada (“**RBC**”), during the Forecast Period.

Appendix “C”



Court File No. CV-23-00693758-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

)

THURSDAY THE 12TH

MADAM JUSTICE KIMMEL

)

DAY OF OCTOBER, 2023

)

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD.
AND 2496750 ONTARIO INC. (each, an "Applicant" and
collectively, the "Applicants")**

ORDER

(Monitor's Enhanced Powers and Amended Bid Process Approval)

THIS MOTION, made by KPMG Inc., in its capacity as the monitor (in such capacity, the "**Monitor**") of the Applicants, OTE Logistics LP and Original Traders Energy LP (collectively with the Applicants, the "**OTE Group**") for an order expanding the Monitor's powers pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and these proceedings, the "**CCAA Proceedings**") and approving a bid process for the sale of assets of the OTE Group, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the supplement to the Fifth Report of the Monitor (the "**Supplemental Fifth Report**"), and on hearing the submissions of counsel for the OTE Group, counsel for the Monitor, counsel for Royal Bank of Canada ("**RBC**") and those other parties listed on the counsel slip, no one else appearing although duly served as it appears from the affidavit of service of Thomas Gray dated October 6, 2023.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record of the Monitor is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used within this Order and not expressly defined herein shall have the meanings set forth in the amended and restated initial order granted by this Court in the CCAA Proceedings on February 9, 2023 (the "**Amended and Restated Initial Order**").

MONITOR'S ENHANCED POWERS

3. **THIS COURT ORDERS** that without in any way limiting the powers of the Monitor pursuant to the CCAA, or other applicable law, or as set out in the Amended and Restated Initial Order, or any other Order granted in the CCAA Proceedings, the Monitor is hereby empowered and authorized, but not obligated, to do any of the following in the name of and on behalf of the OTE Group, where the Monitor considers it necessary or desirable:

- (a) take any and all actions and steps to manage, operate and carry on the Business, including, without in any way limiting the generality of the forgoing:
 - (i) any actions or steps the Monitor considers necessary or desirable to proceed with an orderly restructuring or liquidation of the Business, including any actions necessary to carry out the Amended Bid Process (as defined in the Supplemental Fifth Report);
 - (ii) any and all steps of the OTE Group authorized by any Order made in the CCAA Proceedings, including making distributions or payments and conducting the Claims Procedure approved by this Court on April 27, 2023 and as may be amended from time to time;
 - (iii) entering into any agreements;

- (iv) permanently or temporarily ceasing, downsizing or shutting down any of the OTE Group's operations;
- (v) terminating the employment of or temporarily laying off employees of the OTE Group;
- (vi) settling, extending or compromising any indebtedness owing to or by the OTE Group;
- (vii) engaging consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including those conferred by this Order;
- (viii) purchasing or leasing machinery, equipment, inventories, supplies, premises or other assets to continue the Business, or any part or parts thereof;
- (ix) initiating, prosecuting and continuing the prosecution of any and all proceedings and defending all proceedings now pending or hereafter instituted with respect to the OTE Group, the Business, the Property or the Monitor and to settle or compromise any such proceeding;
- (x) engaging with any regulatory bodies or law enforcement on behalf of the OTE Group;
- (xi) applying for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and in the name of the OTE Group;
- (xii) claiming any and all insurance refunds or tax refunds to which the OTE Group is entitled on behalf of the OTE Group;
- (xiii) paying all taxes, fees, legal costs and other expenses of the OTE Group;

- (xiv) disclaiming any contracts and agreements on behalf of the OTE Group;
 - (xv) taking any and all corporate governance actions for the OTE Group; and
 - (xvi) providing instruction and direction to the advisors of the OTE Group;
- (b) preserve and protect the Property, or any parts thereof, provided that the Monitor shall not be deemed to be in possession or control of the Property;
 - (c) report to, meet with and discuss with such affected persons as the Monitor deems appropriate on all matters relating to the Business and the Property, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
 - (d) oversee and direct the preparation and dissemination of financial and other information of the OTE Group in the CCAA Proceedings, including cash flow statements;
 - (e) apply to the Court for advice and direction or for any further orders in the CCAA Proceedings, including, without in any way limiting the generality of the foregoing, sale approval and vesting orders and orders extending or terminating the stay of proceedings; and
 - (f) take any steps reasonably incidental to the exercise by the Monitor of the powers listed above or the performance of any statutory obligations.

4. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, but not obligated, at such time as the Monitor may determine, if at all, to file an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") for and on behalf of the OTE Group or any of the OTE Group entities and to take any steps incidental thereto.

5. **THIS COURT ORDERS** that KPMG Inc. is hereby authorized and empowered, but not obligated, to act as trustee in bankruptcy in respect of any OTE Group entity that makes an assignment into bankruptcy.

6. **THE COURT ORDERS** that the Monitor is solely authorized and empowered to exercise the powers set out in this order to the exclusion of all other persons, including the OTE Group, and without interference from any other person.

7. **THIS COURT ORDERS** that the OTE Group and its respective advisors and its current and former officers, directors, employees, agents and representatives shall continue to cooperate with the Monitor and to provide full and complete access to the Property, including in connection with the exercise of any of the Monitor's enhanced powers described above, and shall provide the Monitor with such assistance as the Monitor may request from time to time to enable to Monitor to carry out and discharge its powers as set out in this Order or any other Order of this Court in this proceeding.

LIMITATION ON THE MONITOR'S LIABILITY

8. **THIS COURT ORDERS** that the Monitor is not and shall not, for any purposes, be deemed to be a director, officer, employee, receiver, receiver-manager, or liquidator of the OTE Group.

9. **THIS COURT ORDERS** that the Monitor is not and shall not for the purposes of the *Income Tax Act*, RSC, 1985, c 1 (5th Supp) be deemed to be a legal representative or person to whom s. 150(3) of that Act applies.

10. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part and no action may be brought against the Monitor or any of its directors, officers, partners, employees, advisors or agents without leave of this Court.

11. **THIS COURT ORDERS** that the rights, protections, indemnities, charges, priorities and other provisions in favour of the Monitor set out in the CCAA or any other applicable legislation, the Amended and Restated Initial Order, and any other Order granted in the CCAA Proceedings, all shall apply and extend to the Monitor in connection with the Monitor carrying out and

exercising its enhanced powers in connection this Order, amended as necessary to give effect to the terms of this Order.

APPROVAL OF AMENDED BID PROCESS

12. **THIS COURT ORDERS** that the Amended Bid Process (as defined and described in the Supplemental Fifth Report) be and is hereby approved. The Monitor is hereby authorized to carry out the Amended Bid Process, in consultation with RBC, and to take such steps as it considers necessary or desirable in carrying out its obligations thereunder, including entering into relevant realtor and/or property listing agreements, subject to prior approval of this Court being obtained before completion of any sale transaction under the Amended Bid Process.

13. **THIS COURT ORDERS** that the Monitor and its affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages, or liabilities of any nature or kind to any person in connection with or as a result of the Monitor performing its duties under the Amended Bid Process, except to the extent such losses, claims, damages or liabilities arise or result from the gross negligence or wilful misconduct of the Monitor, as determined by this Court in a final order that is not subject to appeal or other review.

14. **THIS COURT ORDERS** that the Monitor may redact information deemed to be commercially sensitive by the OTE Group in the course of the Amended Bid Process. The Monitor may provide such commercially sensitive information to a successful bidder following the selection of a successful bid for the purposes of confirmatory due diligence.

15. **THIS COURT ORDERS** that the Monitor may amend any timelines and make any minor amendments it deems necessary or advisable to the Amended Bid Process to help ensure the fairness, integrity and efficacy of the Amended Bid Process.

16. **THIS COURT ORDERS** that, pursuant to clause 7(30(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions the Monitor is hereby authorized and permitted to disclose and provide to its agents and any potential purchasers in the Amended Bid Process personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a

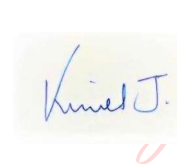
transaction pursuant to the Amended Bid Process (a “**Transaction**”). Each person to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Monitor or, in the alternative, destroy all such information and provide confirmation of its destruction to the Monitor. Any purchaser under a Transaction shall maintain and protect the privacy of such information and, upon closing of a Transaction, shall be entitled to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the OTE Group, and shall return all other personal information to the Monitor, or ensure that all other personal information is destroyed and provide confirmation of its destruction to the Monitor.

GENERAL

17. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or any other jurisdiction, to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Monitor and its respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that this Order is effective as of 12:01am EST on the date of this Order without the need for entry or filing.

 Digitally signed
by Jessica Kimmel
Date: 2023.10.12
22:33:11 -04'00'

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO
INC.

Court File No. CV-23-00693758-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceedings commenced at Toronto

ORDER

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Raj S. Sahni (LSO# 42942U)
Tel No: 416-777-4808
Email: sahnir@bennettjones.com

Thomas Gray (LSO# 82473H)
Tel No: 416-777-7924
Email: grayt@bennettjones.com

Lawyers for the Monitor

Appendix “D”



Court File No. CV-23-00693758-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

| | | |
|-----------------|---|-----------------------|
| THE HONOURABLE |) | THURSDAY, THE 9TH |
| |) | |
| JUSTICE OSBORNE |) | DAY OF FEBRUARY, 2023 |

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF **ORIGINAL TRADERS ENERGY LTD.**
AND 2496750 ONTARIO INC. (each, an "**Applicant**" and
collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order amending and restating the Initial Order (the "**Initial Order**") dated January 30, 2023 (the "**Initial Filing Date**") was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the affidavit of Scott Hill sworn January 27, 2023 and the Exhibits thereto (the "**Hill Affidavit**"), the second affidavit of Scott Hill sworn January 27, 2023 and the Exhibits thereto (the "**Second Hill Affidavit**"), the third affidavit of Scott Hill sworn February 7, 2023 and the Exhibits thereto (the "**Third Hill Affidavit**") the pre-filing report of the proposed monitor, KPMG Inc. ("**KPMG**") dated January 27, 2023 (the "**Pre-Filing Report**"), the first report of KPMG dated February 8, 2023 (the "**First Report**") and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, OTE Logistics LP and Original Traders Energy LP (with OTE Logistics LP, the "**Partnerships**" and collectively with the Applicants, the "**OTE Group**"), counsel for Royal Bank of Canada ("**RBC**") and such other

counsel who were present, and on reading the consent of KPMG to act as the monitor (the “**Monitor**”),

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

DEFINED TERMS

2. THIS COURT ORDERS that capitalized terms used within this Order shall have the meanings ascribed to them in the Hill Affidavit or the Pre-Filing Report, as applicable, if they are not otherwise defined herein.

APPLICATION

3. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not Applicants, the Partnerships shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

4. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”) between, *inter alia*, one or more of the OTE Group.

POSSESSION OF PROPERTY AND OPERATIONS

5. THIS COURT ORDERS that the OTE Group shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the OTE Group shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The OTE Group are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or

employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. THIS COURT ORDERS that the OTE Group shall be entitled to continue to utilize the central cash management system currently in place as described in the Hill Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the OTE Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the OTE Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any future Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. THIS COURT ORDERS that the OTE Group shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the OTE Group in respect of these proceedings, at their standard rates and charges;
- (c) with the consent of the Monitor and the OTE Group, amounts owing for goods or services actually supplied to any of the OTE Group prior to the date of this Order by third party suppliers, up to a maximum aggregate amount of \$6,375,000, if such third party is critical to the Business and ongoing operations of the OTE Group; and

- (d) amounts owing to the Ministry of Finance relating to an agreement reached with the Ministry of Finance on January 26, 2023 regarding the extension of certain fuel and gas tax licenses.

8. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the OTE Group shall be entitled but not required to pay all reasonable expenses incurred by the OTE Group in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) any payments required by RBC under the existing credit facilities extended by RBC to certain of the OTE Group; and
- (c) payment for goods or services actually supplied to the OTE Group following the date of this Order.

9. THIS COURT ORDERS that the OTE Group shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the OTE Group in connection with the sale of goods and services by the OTE Group, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the OTE Group.

10. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the OTE Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the OTE Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. THIS COURT ORDERS that, except as specifically permitted herein, the OTE Group are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the OTE Group to any of its creditors as of this date, save and except for RBC; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

CARVE-OUT

12. THIS COURT ORDERS that RBC shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA.

RESTRUCTURING

13. THIS COURT ORDERS that the OTE Group shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the OTE Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

14. THIS COURT ORDERS that the OTE Group shall provide each of the relevant landlords with notice of the OTE Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the OTE Group's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the OTE Group, or by further Order of this Court upon application by the OTE Group on at least two (2) days notice to such landlord and any such secured creditors. If the OTE Group disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the OTE Group's claim to the fixtures in dispute.

15. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the OTE Group and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the OTE Group in respect of such lease or leased premises, provided that nothing

herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE OTE GROUP OR THE PROPERTY

16. THIS COURT ORDERS that until and including April 28, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court, tribunal, agency or other legal or, subject to paragraph 19, regulatory body (each, a "**Proceeding**") shall be commenced or continued against or in respect of the OTE Group or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the OTE Group and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the OTE Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

17. THIS COURT ORDERS that the Stay Period does not apply to the rights and remedies of RBC as it pertains to security provided by the OTE Group in favour of RBC.

NO EXERCISE OF RIGHTS OR REMEDIES

18. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, regulatory body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person"), other than RBC, against or in respect of the OTE Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the OTE Group and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the OTE Group to carry on any business which the OTE Group is not lawfully entitled to carry on, (ii) subject to paragraph 19, affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

19. THIS COURT ORDERS that subject to paragraph 20 and notwithstanding Section 11.1 of the CCAA, those rights and remedies of provincial and federal regulators and border authorities that have authority with respect to the importation and exportation of fuel, petroleum,

diesel or gasoline against or in respect of the OTE Group or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, which would materially impair the operation of OTE Group as a going concern, including the revocation or expiry of applicable licenses held by any member of the OTE Group, are hereby stayed and suspended during the Stay Period except with the written consent of the OTE Group and the Monitor, or leave of this Court obtained by motion on no less than ten (10) days' notice to the Service List, such that any applicable license held by any member of the OTE Group is otherwise extended during the Stay Period.

20. THIS COURT ORDERS that nothing in this Order shall prevent any government or regulatory agency or body from taking any action it deems necessary:

- (a) to protect public or employee health and/or safety;
- (b) to address exigent environmental contamination, hazards or other adverse effects; or
- (c) to investigate and prosecute criminal and quasi-criminal offences under federal or provincial laws, but enforcement of monetary orders arising therefrom are stayed subject to further order of this Court.

NO INTERFERENCE WITH RIGHTS

21. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the OTE Group, except with the written consent of the OTE Group and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

22. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the OTE Group or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the OTE Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of

such goods or services as may be required by the OTE Group, and that the OTE Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the OTE Group in accordance with normal payment practices of the OTE Group or such other practices as may be agreed upon by the supplier or service provider and each of the OTE Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

23. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the OTE Group. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

24. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the OTE Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the OTE Group whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the OTE Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the OTE Group or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

25. THIS COURT ORDERS that the OTE Group shall jointly and severally indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the OTE Group after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

26. THIS COURT ORDERS that the directors and officers of the OTE Group shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of **\$2,250,000**, as security for the indemnity provided in paragraph 25 of this Order. The Directors' Charge shall have the priority set out in paragraphs 37 and 39 herein.

27. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the OTE Group's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 25 of this Order.

APPOINTMENT OF MONITOR

28. THIS COURT ORDERS that KPMG is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the OTE Group with the powers and obligations set out in the CCAA or set forth herein and that the OTE Group and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the OTE Group pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

29. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the OTE Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the OTE Group in its development of the Plan and any amendments to the Plan;

- (d) assist the OTE Group, to the extent required by the OTE Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the OTE Group, to the extent that is necessary to adequately assess the OTE Group's business and financial affairs or to perform its duties arising under this Order;
- (f) compel the production, from time to time, from any Person having possession, custody or control of any books, records, accountings, documents, correspondences or papers, electronically stored or otherwise, relating to the OTE Group (the "**Requested Information**");
- (g) require any Requested Information to be delivered within thirty (30) days of the Monitor's request or such a longer time period as the Monitor may agree to in its discretion;
- (h) conduct investigations from time to time, including examinations under oath of any Person reasonably thought to have knowledge relating to the Requested Information;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

30. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

31. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated,

might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

32. THIS COURT ORDERS that the Monitor shall provide any creditor of the OTE Group with information provided by the OTE Group in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the OTE Group is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the OTE Group may agree.

33. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

34. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the OTE Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the OTE Group as part of the costs of these proceedings, whether incurred prior to, on, or subsequent to the date of this Order, by the OTE Group as part of the costs of these proceedings. The OTE Group is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the OTE Group on a weekly basis and, in

addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant, retainers in the approximate amount of **\$950,000** to be held by them as security for payment of their respective fees and disbursements outstanding for certain pre- and post-filing costs.

35. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

ADMINISTRATION CHARGE

36. THIS COURT ORDERS that the Monitor, counsel to the Monitor, and the OTE Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of **\$500,000**, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

37. THIS COURT ORDERS that the priorities of the existing security held by RBC (the "**RBC Security**"), the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – RBC Security;

Second – Administration Charge; and

Third – Directors' Charge.

38. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the RBC Security (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the

Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

39. THIS COURT ORDERS that each of the Directors' Charge, the Administration Charge and the RBC Security (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

40. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the OTE Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the RBC Security, unless the OTE Group also obtains the prior written consent of the Monitor and the beneficiaries of the Directors' Charge, the RBC Security and the Administration Charge, or further Order of this Court.

41. THIS COURT ORDERS that the Directors' Charge, the Administration Charge and the RBC Security shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the OTE Group, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the OTE Group of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the OTE Group entering into the creation of the Charges; and
- (c) the payments made by the OTE Group pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

42. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the OTE Group's interest in such real property leases.

SERVICE AND NOTICE

43. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the OTE Group of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

44. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor's website as part of the public materials to be recorded thereon in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

45. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<<https://home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/original-traders-energy-group.html>>.

46. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the OTE Group and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the OTE Group’s creditors or other interested parties at their respective addresses as last shown on the records of the OTE Group and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

47. THIS COURT ORDERS that the OTE Group or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

48. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the OTE Group, the Business or the Property.

49. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the OTE Group, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the OTE Group and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to

assist the OTE Group and the Monitor and their respective agents in carrying out the terms of this Order.

50. THIS COURT ORDERS that each of the OTE Group and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

51. THIS COURT ORDERS that any interested party (including the OTE Group and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

52. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

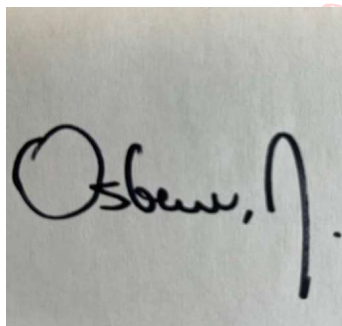
53. THIS COURT ORDERS that this Order is effective from today's date and is enforceable without the need for entry or filing.

SEALING RELIEF

54. THIS COURT ORDERS that the Second Hill Affidavit shall be and is hereby sealed, kept confidential, and shall not form part of the public record until the earlier of (a) the vacating of the sealing order appended as Exhibit B to the Second Hill Affidavit (the "**Foreign Sealing Order**"), without being replaced by another sealing order granted by a court of a foreign jurisdiction, (b) the vacating of any sealing order that may granted by a court of a foreign jurisdiction to replace the Foreign Sealing Order, or (c) further Order of this Court.

INITIAL ORDER AND INITIAL FILING DATE

55. THIS COURT ORDERS that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for above.

A handwritten signature in black ink, appearing to read "Osbeu, J.", is visible on a light-colored background. The signature is written in a cursive style.

2023.02.0
9 08:14:57
-05'00'

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD. AND 2496750 ONTARIO
INC.

Court File No. CV-23-00693758-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

AIRD & BERLIS LLP

Barristers and Solicitors
Brookfield Place
181 Bay Street
Suite 1800
Toronto, ON M5J 2T9

Steven Graff (LSO# 31871V)
Miranda Spence (LSO# 60621M)
Tamie Dolny (LSO#77958U)
Samantha Hans (LSO# 84373H)

Tel: 416.863.1500
Fax: 416.863.1515

Lawyers for the OTE Group

IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD. and 2496750 ONTARIO INC.
Court File No. CV-23-00693758-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

Eleventh Report of the Monitor

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan (#32076A)
Email: swanr@bennettjones.com

Raj Sahni (#42942U)
Email: sahnir@bennettjones.com

Shaan P. Tolani (#80323C)
Email: tolanis@bennettjones.com

Thomas Gray (#82473H)
Email: grayt@bennettjones.com

Tel: 416.863.1200
Fax: 416.863.1716

Lawyers for the Monitor