

**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.**

**MOTION RECORD
(Returnable January 30, 2025)**

January 24, 2025

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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.**

Applicants

**SERVICE LIST
(January 24, 2025)**

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LTD. AND 2496750 ONTARIO INC.**

**MOTION RECORD
(Returnable January 30, 2025)**

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2	The Monitor's Twelfth Report dated January 24, 2025
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B	Appendix "B" – Distribution Order
C	Appendix "C" – HST Email
D	Appendix "D" – Claims Procedure Order
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3	Draft Distribution and Claims Transition Order

Tab 1

**ONTARIO
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**NOTICE OF MOTION
(Returnable January 30, 2025)**

KPMG Inc. (“**KPMG**”), in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of the Applicants, OTE Logistics LP and Original Traders Energy LP (together the “**Limited Partnerships**” and collectively with the Applicants, the “**OTE Group**”) in these proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”, and these proceedings, the “**CCAA Proceedings**”) will make a motion to be heard by a judge of the Ontario Superior Court (Commercial List) (the “**Court**”) at 10:00 a.m. (EST) on January 30, 2025.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ in writing under subrule 37.12.1 (1);
- ☐ in writing as an opposed motion under subrule 37.12.1 (4);
- ☐ in person at 330 University Avenue, Toronto, Ontario;
- ☐ by telephone conference;
- ☒ by video conference.

THIS MOTION IS FOR:

1. An Order substantially in the form appended to the Motion Record of the Monitor at Tab 3 (the “**Distribution and Claims Transition Order**”), among other things:

- (a) approving distributions to the OTE Group’s secured creditor, the Royal Bank of Canada (“**RBC**”);
- (b) approving the distribution and payment of amounts to RBC on account of harmonized sales tax (“**HST**”) owing by the OTE Group and remittable by RBC to the Canada Revenue Agency (“**CRA**”), as well as any applicable interest and penalties thereon; and
- (c) providing that:
 - (i) the proofs of claim (the “**Proofs of Claim**”) against the Limited Partnerships already filed in accordance with the claims procedure approved by this Court in the CCAA Proceedings on April 27, 2023 (and as amended by Order dated October 12, 2023, the “**Claims Procedure**”) shall be treated as having been filed in the bankruptcy proceedings for the Limited Partnerships (the “**Bankruptcy Proceedings**”) for the purposes of the respective bankruptcies; and
 - (ii) to the extent the quantum and validity of the claims filed in the CCAA Proceedings are finally determined in the CCAA Proceedings, the Claims Procedure shall continue to apply, and to the extent the quantum and validity of the claims filed in the Bankruptcy Proceedings (including the Proofs of

Claim) are finally determined in the Bankruptcy Proceedings, the relevant provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “BIA”) shall apply.

2. Such further and other relief as counsel may request and this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

Background

3. The OTE Group functioned as a wholesale fuel supplier which serviced mainly First Nations’ petroleum stations and First Nations’ communities across Ontario.

4. The OTE Group was granted protection under the CCAA on January 30, 2023 pursuant to the initial order issued by this Court (the “**Initial Order**”). Among other things, the Initial Order granted a ten-day stay of proceedings in favour of the OTE Group and appointed KPMG as the Monitor with certain investigatory powers. The stay of proceedings was extended pursuant to the Amended and Restated Initial Order issued on February 9, 2023, and has been extended from time to time throughout these proceedings. In its capacity as Monitor, KPMG has participated in these proceedings in accordance with its duties under the Orders granted and the CCAA, and has filed various Reports with the Court. This Court has granted various Orders in these proceedings – only the background relevant to this motion is included below.

5. On October 12, 2023, following the adjournment of several motions that were previously brought before the Court, this Court issued the following Orders:

- (a) an Order (the “**Enhanced Powers Order**”), among other things, providing the Monitor with enhanced powers in connection with the business and property of the OTE Group (including the power to file assignments in bankruptcy in respect of any of the OTE Group entities and to be appointed as bankruptcy trustee in connection therewith); and
- (b) an Order, among other things, extending the stay period to April 26, 2024, approving certain amendments to the claims procedure for the OTE Group, and approving the activities of the Monitor (the “**Amended Claims Procedure Order**”).

6. On January 30, 2024 the Court issued 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. (“**All Star**”, and that transaction, the “**Vehicle Transaction**”) dated January 11, 2024 (the “**Approval and Vesting Order**”). The Vehicle Transaction has since closed, and as discussed further below, a distribution to various capital lessors and secured parties was approved by this Court pursuant to an Order granted on March 27, 2024 (the “**Distribution Order**”).

7. The Monitor issued its eleventh report dated October 17, 2024 (the “**Eleventh Report**”), seeking two orders:

- (a) an order extending the stay of proceedings from October 25, 2024 to April 25, 2025 and approving the Tenth Report and the Eleventh Report, and the activities of the Monitor described therein (the “**Stay Extension and Activity Approval Order**”); and

- (b) an order requiring that these CCAA Proceedings remain extant notwithstanding a bankruptcy filing by any of the entities of the OTE Group and providing that KPMG shall retain the powers and protections granted to the Monitor should KPMG be appointed the bankruptcy trustee of any of the entities of the OTE Group in accordance with the Enhanced Powers Order (the “**Transition Order**”).

8. The Stay Extension and Activity Approval Order was granted by the Court on October 23, 2024 while the motion for the Transition Order was adjourned to December 5, 2024 to allow the Office of the Superintendent in Bankruptcy (the “**OSB**”) an opportunity to raise any issues or concerns on the Transition Order from their perspective to be considered by the Court. A revised version of the Transition Order (the “**Revised Transition Order**”) which reflected the OSB’s comments following discussions with the Monitor was ultimately granted by the Court at the return of the motion.

9. The Monitor filed an assignment in bankruptcy of the Limited Partnerships (the “**OTE Bankrupt Entities**”) on December 30, 2024, and the Monitor was appointed as trustee (the “**OTE Bankruptcy Trustee**”) of the OTE Bankrupt Entities subject to affirmation by creditors of the OTE Bankrupt Entities. The first meeting of creditors (the “**FMOC**”) of the OTE Bankrupt Entities will be held on February 6, 2025 (which extension of the typical 21-day time period was consented to by the official receiver).

The Distribution to RBC

10. As previously discussed in the Fifth Report of the Monitor dated September 28, 2023, RBC is a secured lender to the Limited Partnerships through certain loan facilities (the “**Loan Documents**”) secured by various security documents, including a general security agreement (the

“**GSA**”, and collectively, the “**Security Documents**”). As disclosed therein, the Monitor’s independent counsel, Bennett Jones LLP completed a review of RBC’s security and provided an opinion, subject to the customary assumptions and qualifications, that the Security Documents constitute valid and binding obligations of the Limited Partnerships to which the the *Personal Property Security Act* (Ontario) (the “**PPSA**”) applies; the Security Documents are valid security interests in the property described therein; and registration had been made in all public offices in Ontario as of the applicable PPSA searches.

11. In addition to the GSA, RBC also had security over certain vehicles (the “**RBC Vehicles**”) by way of capital leases (the “**RBC Vehicle Leases**”). As noted above, this Court approved a sale of those vehicles and others in possession of the OTE Group (the “**Vehicles**”) to All Star pursuant to the Approval and Vesting Order. The Vehicles were encumbered by loan and security agreements or held pursuant to capital leases with various companies, including RBC (the “**Vehicle Financing Companies**”). Bennett Jones LLP prepared a security opinion for the security in favour of the Vehicle Financing Companies in respect of the Vehicles, and found (subject to the customary assumptions and qualifications) that the security documents (i) created valid and binding obligations of the OTE Group entities party thereto, (ii) created valid security interests in the vehicles; and (iii) aside from one unperfected equipment note (which was in favour of one of Vehicle Financing Companies other than RBC), registration was properly made in respect of all security interests.

12. Pursuant to the Approval and Vesting Order, all security held by the Vehicle Financing Companies was vested out of the Vehicles, and stood instead against the proceeds of the Vehicle Transaction (the “**Vehicle Proceeds**”). This Court approved a distribution of the Vehicle Proceeds to CWB, Essex, Meridian and VFV pursuant to the Distribution Order. The Monitor noted in its

report prepared in connection with the Distribution Order that approval of distribution to RBC in respect of the amounts secured pursuant to the Security Documents as well as amounts secured against proceeds arising from disposition of the RBC Vehicles would be sought at a later date.

13. Accordingly, given that RBC has valid and enforceable security on the proceeds of the RBC Vehicles and the GSA against all other assets of the Limited Partnerships, the Monitor now seeks approval from this Court to make distributions to RBC up to the amount of the secured obligations owing by the Limited Partnership to RBC (the “**Loan Distribution**”), which, as of the date hereof, is approximately \$2,053,421 (plus further amounts that will be due to RBC on account of certain credit facilities that remain available, plus further interest and costs). For clarity, the Monitor is seeking to make these distributions solely in its capacity as Monitor in these CCAA Proceedings, and is not seeking to make the Loan Distribution in its capacity as the OTE Bankruptcy Trustee of the Limited Partnerships. The Monitor believes the Loan Distribution is appropriate in the circumstances and will not prejudice any stakeholder of the OTE Group.

Distribution and Remittance of Amounts to the CRA

14. The Monitor and the OTE Group were notified by RBC that HST may have been applicable on lease payments made by OTE Group on the RBC Vehicle Leases. HST was previously not charged or collected by RBC based on RBC’s understanding that the OTE Group was exempt from payment of HST on purchase of certain services. The basis of this view was that the OTE Group’s business activities took place on Indian reserves in Ontario and that valid certificates of Indian status were provided for the Indian status partners (the “**Status Indians**”) of the OTE Group, such that the exemption under section 87 of the federal *Indian Act* was applicable, pursuant to published

CRA administrative policy contained in *GST/HST Administrative Policy B-039 - Application of the GST/HST to Indians* (“**B-039**”).

15. Upon further review, the Monitor understands that the basis of the HST exemption could be challenged by the CRA on the grounds that the services provided to the OTE Group may not be considered as services “for real property situated on a reserve” or “tangible personal property delivered to a reserve”, the requirement under B-039 initially relied on for the exemption. RBC had further raised the question as to whether either of the Limited Partnerships could qualify for the exemption, given that the general partners of the Limited Partnerships were corporations and not Status Indians, also on the basis of criteria provided in B-039. Accordingly, RBC has requested the OTE Group pay HST on the lease payments made to RBC in the past so that RBC may remit those amounts to the CRA.

16. The Monitor therefore seeks approval from this Court to remit the HST owing to the CRA, on behalf of RBC in the amount of approximately \$576,403.98, on account of HST, and the amount of approximately \$23,056.16, on account of penalties and interest accrued on the HST owing (collectively, the “**HST Remittance**”, and together with the Loan Distribution, the “**RBC Distribution**”).

17. The Monitor believes that the RBC Distribution is appropriate in the circumstances as RBC has valid security interests in the RBC Vehicles and other assets of the OTE Group. The amount of the RBC Distribution represents the payment of all obligations owing from the OTE Group to RBC.

The Transition of Claims

18. As stated above, the Limited Partnerships filed for bankruptcy on December 30, 2024. In advance of the FMOC, in accordance with the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), creditors of the Limited Partnerships are required to file a Proof of Claim to be entitled to vote at the meeting. However, the known creditors of the Limited Partnerships previously filed Proofs of Claim in the CCAA Proceedings pursuant to the Claims Procedure.. The Claims Procedure and the Enhanced Powers Order collectively provide for a Monitor-led process through which the validity of all claims against the OTE Group will be determined.

19. Given that the CCAA Proceedings are extant, in conjunction with the Bankruptcy Proceedings the Monitor seeks authorization to utilize the Proofs of Claims already filed in the CCAA Proceedings for the purposes of the tabulating votes at the FMOC for the Limited Partnerships in the Bankruptcy Proceedings. The Monitor also seeks to have the previously approved Claims Procedure continue to apply to the extent any claims against the OTE Group are finally determined in the CCAA Proceedings, and the BIA apply to the extent any claims against the Limited Partnerships are finally determined in the Bankruptcy Proceedings.

20. The purpose of the Revised Transition Order was to ensure that the CCAA Proceedings and Bankruptcy Proceedings are managed in an efficient manner without unwarranted duplication. The Monitor is of the view that the relief sought on this motion is in the best interests of the OTE Group and its stakeholders as the steps previously taken in respect of the Claims Procedure need not be duplicated. The Monitor discussed the relief sought on this motion with the OSB and provided a draft Distribution and Claims Transition Order to the OSB in advance of service, and

the OSB confirmed that it does not oppose the form of Order appended to the Monitor's motion record.

OTHER GROUNDS FOR THE MOTION ARE:

21. The provisions of the CCAA and the inherent and equitable jurisdiction of this Court.

22. The Orders granted by the Court in these CCAA Proceedings, including without limitation the Enhanced Powers Order dated October 12, 2023.

23. Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, 37, 39 and 72.03 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

25. The Twelfth Report and the appendices thereto.

26. Such further and other evidence as counsel may advise and this Honourable Court may permit.

January 24, 2025

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Lawyers for the Monitor

TO: THE SERVICE LIST

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 in Toronto

Notice of Motion
(Returnable January 30, 2025)

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Tab 2

ORIGINAL TRADERS ENERGY LTD. ET AL.

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

January 24, 2025

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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.**

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

January 24, 2025

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 and Orders granted 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 twelfth report of the Monitor (the “**Twelfth Report**”) is to provide the Monitor’s basis for bringing a motion seeking an order (the “**Distribution and Claims Transition Order**”), among other things:
 - (i) approving distributions to the OTE Group’s secured creditor, the Royal Bank of Canada (“**RBC**”);
 - (ii) approving the distribution and payment of amounts to RBC on account of harmonized sales tax (“**HST**”) owing by the OTE Group and remittable by RBC to the Canada Revenue Agency (“**CRA**”), as well as any applicable interest and penalties thereon; and
 - (iii) providing that:

- a) the proofs of claim (the “**Proofs of Claim**”) against the Limited Partnerships already filed in accordance with the claims procedure approved by this Court in the CCAA Proceedings on April 27, 2023 (and as amended by Order dated October 12, 2023, the “**Claims Procedure**”) shall be treated as having been filed in the bankruptcy proceedings for the Limited Partnerships (the “**Bankruptcy Proceedings**”) for the purposes of the respective bankruptcies; and
- b) to the extent the quantum and validity of the claims filed in the CCAA Proceedings are finally determined in the CCAA Proceedings, the Claims Procedure shall continue to apply, and to the extent the quantum and validity of the claims filed in the Bankruptcy Proceedings (including the Proofs of Claim) are finally determined in the Bankruptcy Proceedings, the relevant provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) shall apply.

III. TERMS OF REFERENCE

- 5. In preparing the Twelfth 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 Twelfth Report.¹ As noted above, all Orders granted and materials filed in these proceedings can be accessed on the Monitor’s Website.

8. On October 12, 2023, the Court issued the following:

- (i) an Order (the “**Enhanced Powers Order**”), among other things, providing the Monitor with enhanced powers in connection with the business and property of the OTE Group (including the power to file assignments in bankruptcy in respect of any of the OTE Group entities and to be appointed as bankruptcy trustee in connection therewith), 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 for the OTE Group, and approving the activities of the Monitor (the “**Amended Claims Procedure Order**”).

9. 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. (“**All Star**”, and that transaction, the “**Vehicle Transaction**”) dated January 11, 2024 (the “**Approval and Vesting Order**”); and
- (ii) an Order, among other things, approving certain key employee retention plan payments and temporarily sealing certain confidential appendices to the Monitor’s seventh report dated January 22, 2024 (the “**Seventh Report**”).

10. 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: (i) an Order approving a distribution from the proceeds of the Vehicle Transaction (the “**Distribution Order**”); and (ii) an Order

¹ Among other things, this Report does not discuss or provide background on the Monitor’s ongoing investigation or the injunctive and Mareva Orders granted in these proceedings, which are discussed in greater detail in the Monitor’s [Second Report](#) dated March 13, 2023, [Supplement to the Second Report](#) dated March 27, 2023, [Sixth Report](#) dated November 8, 2023 (the “**Sixth Report**”), and [Supplement to the Sixth Report](#) dated December 4, 2023 (the “**Supplement to the Sixth Report**”).

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.

11. 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 the 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 and authorizing the Monitor to execute the documentation necessary to ensure that the security of RBC applied to those funds; and
- (iv) approving the Monitor’s Sixth Report; Supplement to the Sixth Report; Seventh Report; Eighth Report; and Ninth Report, and the activities and conduct of the Monitor in relation to the OTE Group and the CCAA Proceedings as set out therein.

12. 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.

13. 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 Monitor's tenth report dated September 4, 2024 (the "**Tenth Report**").
14. The Monitor issued its eleventh report dated October 17, 2024 (the "**Eleventh Report**"), seeking two orders:
- (i) an order extending the stay of proceedings from October 25, 2024 to April 25, 2025 and approving the Tenth Report and the Eleventh Report, and the activities of the Monitor described therein (the "**Stay Extension and Activity Approval Order**"); and
 - (ii) an order requiring that these CCAA Proceedings remain extant notwithstanding a bankruptcy filing by any of the entities of the OTE Group and providing that KPMG shall retain the powers and protections granted to the Monitor should KPMG be appointed the bankruptcy trustee of any of the entities of the OTE Group in accordance with the Monitor's Enhanced Powers and Bid Process Approval Order (the "**Transition Order**").
15. The Stay Extension and Activity Approval Order was granted by the Court on October 23, 2024 while the motion for the Transition Order was adjourned to December 5, 2024 to allow the Office of the Superintendent in Bankruptcy (the "**OSB**") an opportunity to raise any issues or concerns on the Transition Order.
16. On November 29, 2024, the Monitor issued a supplement to the Eleventh Report summarizing the Monitor's discussions with the OSB regarding the Transition Order and recommending that the Court grant a revised version of the Transition Order (the "**Revised Transition Order**") which reflected the OSB's comments following discussions. On December 5, 2024, the Court issued the Revised Transition Order.
17. The Monitor filed an assignment in bankruptcy of the Limited Partnerships (the "**OTE Bankrupt Entities**") on December 30, 2024, and the Monitor was appointed as trustee (the "**OTE Bankruptcy Trustee**") of the OTE Bankrupt Entities subject to affirmation by creditors of the OTE Bankrupt Entities. The first meeting of creditors (the "**FMOC**") of the OTE Bankrupt Entities will be held on February 6, 2025.

V. DISTRIBUTION

18. As previously discussed in the Fifth Report of the Monitor dated September 28, 2023, RBC is a secured lender to the Limited Partnerships through certain loan facilities (the “**Loan Documents**”) secured by various security documents, including a general security agreement (the “**GSA**”, and collectively, the “**Security Documents**”). As disclosed therein, the Monitor’s independent counsel, Bennett Jones LLP completed a review of RBC’s security and provided an opinion, subject to the customary assumptions and qualifications, that:

- (i) the Security Documents constitute valid and binding obligations of the Limited Partnerships noted as parties to the Security Documents, enforceable against the Limited Partnerships in accordance with the terms thereof;
- (ii) the Security Documents created in favour of RBC are valid security interests in the properties, assets, interests and rights of the Limited Partnerships (the “**Charged Property**”) described in the Security Documents to which the *Personal Property Security Act* (Ontario) (the “**PPSA**”) applies; and
- (iii) as of the applicable dates of the PPSA searches, registration has been made in all public offices in Ontario provided for under applicable law where such registration is necessary to preserve, protect and perfect the security interests in the Charged Property of the OTE Group to which the PPSA applies, as created by the Security Documents.

19. In addition to the GSA, RBC also had security over certain vehicles (the “**RBC Vehicles**”) by way of capital leases (the “**RBC Vehicle Leases**”). As discussed above, this Court approved a sale of various vehicles in possession of the OTE Group (the “**Vehicles**”) to All Star pursuant to the Approval and Vesting Order granted on January 30, 2024. The Vehicles were encumbered by loan and security agreements or held pursuant to capital leases with CWB National Leasing (“**CWB**”), Essex Lease Financial Corporation (“**Essex**”), Meridian OneCap Credit Corporation (“**Meridian**”), Volvo Financial Services (“**VFV**”) and RBC (collectively, the “**Vehicle Financing Companies**”). As noted in the Eighth Report, Bennett Jones LLP prepared a security opinion for the security over the Vehicles in favour of the Vehicle Financing Companies, and found (subject to the customary assumptions and qualifications) that the security documents (i) created valid and binding obligations of the OTE Group entities party thereto, (ii) created valid security interests in the Vehicles; and (iii) aside from one unperfected equipment note (which was in favour of one of

Vehicle Financing Companies other than RBC), registration was properly made in respect of all security interests.

20. Pursuant to the Approval and Vesting Order, all security held by the Vehicle Financing Companies was vested out of the Vehicles and stood instead against the proceeds of the Vehicle Transaction (the “**Vehicle Proceeds**”). A copy of the Approval and Vesting Order is attached hereto as **Appendix “A”**.
21. As set out in its Eighth Report, the Monitor later sought (and this Court approved pursuant to the Distribution Order) a distribution of the Vehicle Proceeds to CWB, Essex, Meridian and VFV. The Monitor noted that approval of distribution to RBC in respect of the amounts secured pursuant to the Security Documents as well as amounts secured against proceeds arising from disposition of the RBC Vehicles would be sought at a later date. A copy of the Distribution Order is attached hereto at **Appendix “B”**.
22. Accordingly, given that RBC has valid and enforceable security on the proceeds of the RBC Vehicles and the GSA against all other assets of the Limited Partnerships, the Monitor now seeks approval from this Court to make one or more distributions to RBC up to the amount of the secured obligations owing by the OTE Group to RBC (the “**Loan Distribution**”), which, as of the date hereof, is approximately \$2,053,421 (plus further amounts that will be due to RBC on account of certain credit facilities that remain available, plus further interest and costs). For clarity, the Monitor is seeking to make these distributions solely in its capacity as Monitor in these CCAA Proceedings, and is not seeking to make the Loan Distribution in its capacity as the OTE Bankruptcy Trustee of the Limited Partnerships.
23. The Monitor believes the Loan Distribution is appropriate in the circumstances – RBC has valid and enforceable security, and the amounts to be distributed are only in the amount of obligations owing to RBC. The Monitor is therefore of the view that the Loan Distribution will not prejudice any stakeholder of the OTE Group.
24. Notwithstanding the above, the OTE Group continues to hold a RBC Visa credit card which the OTE Group will continue to utilize to complete the administrative tasks associated with the winddown of the OTE Group.

HST Remittance on RBC Vehicle Lease Payments

25. The Monitor and the OTE Group were notified by RBC that HST may have been applicable on lease payments made by the Limited Partnerships on the RBC Vehicle leases. HST was previously not charged or collected by RBC based on RBC's understanding that the OTE Group was exempt from payment of HST on purchase of certain services or property. The basis of this view was that the OTE Group's business activities took place on Indian reserves in Ontario and that valid certificates of Indian status were provided for the Indian status partners (the "**Status Indians**") of the OTE Group, such that the exemption under section 87 of the federal *Indian Act* was applicable, pursuant to published CRA administrative policy contained in *GST/HST Administrative Policy B-039 - Application of the GST/HST to Indians* ("**B-039**").
26. Upon further review, the Monitor understands that the basis of the HST exemption could be challenged by the CRA on the grounds that the services provided to the OTE Group may not be considered as services "for real property situated on a reserve" or "tangible personal property delivered to a reserve", the requirement under B-039 initially relied on for the exemption. RBC had further raised the question as to whether either of the Limited Partnerships could qualify for the exemption, given that the general partners of the Limited Partnerships were corporations and not Status Indians, also on the basis of the criteria provided in B-039.
27. Accordingly, RBC has requested the OTE Group pay HST on the lease payments made or still owing to RBC so that RBC may remit those amounts to the CRA.
28. The Monitor seeks approval from this Court to distribute amounts to RBC for the purposes of remittance to the CRA in the amount of approximately \$843,348.71, on account of HST, and the amount of approximately \$33,733.95, on account of penalties and interest accrued on the HST owing (collectively, the "**HST Remittance**", and together with the Loan Distribution, the "**RBC Distribution**").
29. The Monitor has raised the above matter with the Department of Justice, in an email sent on January 7, 2025 (the "**HST Email**", attached hereto as **Appendix "C"**), and has sought waiver of the interest and penalty amounts payable on the grounds of good faith reliance by RBC on the certificates of Indian status as evidence that the HST exemption was available. The Monitor remains in discussions with the Department of Justice and the CRA on this matter.

30. In summary, the Monitor believes that the RBC Distribution is appropriate in the circumstances. The amount of the RBC Distribution represents the payment of all obligations owing from the OTE Group to RBC.
31. In addition to HST payable by the OTE Group in respect of lease payments made on the RBC Vehicle leases, several professional firms were retained to assist the OTE Group in connection with the CCAA Proceedings. Such professional firms similarly did not charge HST on their fees and disbursements in good faith reliance on the certificates of Indian status as evidence that the HST exemption was available. Such professional firms may also choose to collect and remit HST payable by the OTE Group on fees and disbursements and seek waiver of applicable interest and penalties. This matter was also disclosed to the Department of Justice in the HST Email and the Monitor remains in discussions with the Department of Justice and the CRA in connection therewith.
32. The Monitor understands that, as the OTE Group is comprised of HST registrants that have, at all relevant times, been engaged in commercial activities, the OTE Group entities should be entitled to claim input tax credits in respect of the above HST payable. The Monitor intends to engage in discussions with the Department of Justice and the CRA on this matter as well. For clarity, aside from the distribution of the HST Remittance to RBC, the Monitor is not seeking any direction from this Court related to any remittance of HST on this motion, but intends to report to the Court following further discussion with the CRA and may seek direction from the Court at that time.

VI. TRANSITION OF CLAIMS

33. As stated above, the Limited Partnerships filed for bankruptcy on December 30, 2024. In advance of the FMOC, in accordance with the BIA, creditors of the Limited Partnerships are required to file a Proof of Claim to be entitled to vote at the meeting. However, the known creditors of the Limited Partnerships previously filed Proofs of Claim in the CCAA Proceedings pursuant to the Claims Procedure. The Claims Procedure and the Enhanced Powers Order (which, among other things, authorized the Monitor to take any and all steps on behalf of the OTE Group authorized by any Order in the CCAA Proceedings, including the Claims Procedure Order) collectively provide for a Monitor-led process through which the validity of all claims filed against the OTE Group in the CCAA Proceedings will be determined. Copies of the Claims Procedure Order, the Amended Claims Procedure Order, and the Enhanced Powers Order are attached hereto as **Appendices “D”, “E”, and “F”**, respectively.

34. Given that the CCAA Proceedings are extant, in conjunction with the Bankruptcy Proceedings, the Monitor seeks authorization to utilize the Proofs of Claims already filed in the CCAA Proceedings for the purposes of the tabulating votes at the FMOC for the Limited Partnerships in the Bankruptcy Proceedings. The Monitor also seeks to have the previously approved Claims Procedure continue to apply to the extent any claims against the OTE Group are finally determined in the CCAA Proceedings, and the BIA apply to the extent any claims against the Limited Partnerships are finally determined in the Bankruptcy Proceedings.
35. Under the BIA, the first meeting of creditors typically must occur within 21 days of the assignment in bankruptcy. On January 7, 2025, the Monitor discussed this matter with the OSB and requested an extension of the deadline by which the FMOC must be take place (as authorized by subsection 102(1.1) of the BIA) to allow the Monitor to seek the relief from the requirement for parties to re-file their previously filed claims in the Bankruptcy Proceedings. The official receiver approved the extension to allow the Monitor to seek this relief on the basis that the extension would not be prejudicial to the creditors and is in the best interests of the administration of the estates of the OTE Bankrupt Entities.
36. The purpose of the Revised Transition Order was to ensure that the CCAA Proceedings and Bankruptcy Proceedings are managed in an efficient manner without unwarranted duplication. The Monitor is of the view that the relief sought on this motion is in the best interests of the OTE Group and its stakeholders as the steps previously taken in respect of the Claims Procedure need not be duplicated. This Court has already approved a process to determine the validity of claims against the OTE Group – the Monitor does not expect material new claims (if any) to be filed in respect of the OTE Bankrupt Entities. The Monitor discussed the relief sought on this motion with the OSB and provided a draft Distribution and Claims Transition Order to the OSB in advance of service, and the OSB confirmed that it does not oppose the form of Order appended to the Monitor’s motion record. The Monitor is not aware of any opposition to the relief sought, and believes it is in the best interests of all of the OTE Group’s stakeholders.

VII. MONITOR’S RECOMMENDATIONS

37. For the reasons set out in this Twelfth Report, the Monitor is of the view that the relief sought in Distribution and the Claims Transition Order is necessary and appropriate in the circumstances. As such, the Monitor respectfully requests that this Court issue the Distribution and the Claims Transition Order in the form appended to the Monitor’s Motion Record.


All of which is respectfully submitted this 24th day of January, 2025.

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”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	TUESDAY, THE 30 TH
)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2024

**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")**

APPROVAL AND VESTING ORDER

THIS MOTION, made by 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 pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and these proceedings, the "**CCAA Proceedings**") approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Purchase Agreement**") between the Monitor, on behalf of the OTE Group, and Allstar Auctions Inc. (the "**Purchaser**") dated January 11, 2024 and appended to the Seventh Report of the Monitor dated January 22, 2024 (the "**Seventh Report**"), and vesting in the Purchaser the OTE Group's right, title and interest in and to the assets described in the Purchase Agreement (the "**Purchased Assets**"), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Seventh Report and on hearing the submissions of counsel for the Monitor, 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 January 22, 2024:

DEFINED TERMS

1. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined have the meanings ascribed in the Seventh Report.

SERVICE

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

APPROVAL OF TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Monitor on behalf of the OTE Group is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the Monitor's receipt of the Purchase Price from the Purchaser, all of the OTE Group's right, title and interest in and to the Purchased Assets described in the Purchase Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated January 30, 2023 (as amended and restated) or any other Order made in these CCAA Proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry; and (iii) all Claims of capital lessors, lenders and financiers in respect of any capital leases, loan and security agreements or other agreements in respect of the of the Purchased Assets (all of

which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the Monitor’s receipt of the Purchase Price from the Purchaser, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, provided that such net proceeds shall not be distributed pending further order of this Court.

6. **THIS COURT ORDERS** that as of the date hereof, the OTE Group and the Monitor shall have no further obligation to make any payments pursuant to the loan and security agreements, capital leases, or other agreements, to the lenders, financiers or capital lessors in respect of the Purchased Assets.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the OTE Group and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the OTE Group; and
- (d) the provision of any federal or provincial statute;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the OTE Group and shall not be void or voidable by creditors of the OTE Group, nor shall it constitute nor be deemed to be a

fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

GENERAL

8. **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 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 or to assist the Monitor and its agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01am Eastern Time on the date hereof without any need for filing or entry.



Digitally signed by
Mr. Justice
Cavanagh

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 in Toronto

APPROVAL AND VESTING ORDER

BENNETT JONES LLP
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Lawyers for the Monitor

Appendix “B”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	WEDNESDAY, THE 27 TH
)	
JUSTICE KIMMEL	)	DAY OF MARCH, 2024

**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
(Distribution Order)**

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**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and these proceedings, the "**CCAA Proceedings**") for an order, among other things, approving a distribution from the proceeds of the Vehicle Transaction (as defined in the Eighth Report) to certain equipment leasing and financing companies, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the Eighth Report of the Monitor dated March 18, 2024 (the "**Eighth Report**"), and on hearing the submissions of counsel for the Monitor 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, filed.

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 Eighth Report.

DISTRIBUTION OF VEHICLE TRANSACTION PROCEEDS

3. **THIS COURT ORDERS** that the Monitor, on behalf of the OTE Group, is hereby authorized, at such time or times as it determines appropriate, to make the Distributions from the proceeds of the Vehicle Transaction to CWB, Essex, Meridian and Volvo, or to affiliates designated by CWB, Essex, Meridian or Volvo (as applicable), as described at paragraphs 31 and 32 of the Eighth Report.

4. **THIS COURT ORDERS** that the Distributions shall be in full and final satisfaction of any and all claims and security of CWB, Essex, Meridian and Volvo against the OTE Group, including any and all claims and security in respect of the Vehicles.

5. **THIS COURT ORDERS** that the Distributions shall be free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by Order in these CCAA proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada.

6. **THIS COURT ORDERS** that the Distributions shall not constitute a “distribution” by any director, officer, employee or agent of the OTE Group or the Monitor, including their respective legal counsel, and such persons shall not constitute a “legal representative”,

“representative” or a “responsible representative” of the OTE Group or the Monitor or “other person” for purposes of Section 159, 227.1 and 227(5) of the *Income Tax Act* (Canada), Section 117 of the *Taxation Act*, 2007 (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada), Section 22 of the *Retail Sales Tax Act* (Ontario), Section 107 of the *Corporations Tax Act* (Ontario), or any federal, provincial, state or territorial tax legislation (collectively, the “**Statutes**”), and such persons, including the Monitor, in causing or assisting the OTE Group to make any Distribution in accordance with this Order is not “distributing”, nor shall it be considered to have “distributed”, such funds for the purposes of the Statutes, and such persons shall not incur any liability under the Statutes for causing or assisting the OTE Group in making any Distributions in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and such persons shall not have any liability for any of the OTE Group’s tax liabilities regardless of how or when such liabilities may have arisen, and are hereby forever released, remised and discharged from any claims against such person under or pursuant to the Statutes or otherwise at law arising as a result of the Distributions contemplated in this Order, and any claims of such nature are hereby forever barred.

7. **THIS COURT ORDERS** that the Monitor is hereby authorized, directed and empowered to take any further steps that it deems necessary or desirable to complete the Distributions described in this Order.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) the pendency of any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), in respect of the OTE Group or its property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the OTE Group; and
- (d) the provision of any federal, provincial or other statute;

any Distributions made pursuant to this Order are final and irreversible and shall be binding upon any trustee in bankruptcy or receiver that may be appointed in respect of the OTE Group or its property, and shall not be void or voidable by creditors of the OTE Group, nor shall any such distributions constitute or be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers-at-undervalue or other reviewable transactions under the BIA or any other applicable federal, provincial or other law, nor shall they constitute conduct which is oppressive, unfairly prejudicial to or which unfairly disregards the interests of any person, and shall, upon the receipt thereof, be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to the OTE Group or its property.

GENERAL

9. **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.

10. **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.

11. **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: 2024.03.27 14:45:14
-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 in Toronto

ORDER
(Distribution Order)

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P.O. Box 130
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Lawyers for the Monitor

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 in Toronto

MOTION RECORD
(Returnable March 27, 2024)

BENNETT JONES LLP

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Lawyers for the Monitor

Appendix “C”

From: Hennadiy Kutsenko <KutsenkoH@bennettjones.com>
Sent: Tuesday, January 7, 2025 6:22 PM
To: kevin.dias@justice.gc.ca; Edward.Park@justice.gc.ca
Cc: Raj Sahni; Lau, Duncan; Van Eyk, Paul; Martin Henderson; Lomax, Broderick; Steve Graff
Subject: OTE Group - HST Matter [EXTERNAL]
Attachments: Tax exemption letter - May 2021.pdf; Scott New Status Card.pdf

Ed and Kevin,

As you are aware, we act as counsel to KPMG LLP, which was appointed by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) as monitor (the “**Monitor**”), in proceedings under the *Companies’ Creditors Arrangement Act* (“**CCAA**”) commenced on January 30, 2023 by Original Energy Traders Ltd., an Ontario corporation (**OTE GP**), which is the general partner of Original Traders Energy LP (**OTE LP**) and 2496750 Ontario Inc., an Ontario corporation (“**OL GP**”), which is the general partner of OTE Logistics LP (**OL LP**, and collectively with the OTE LP, the **LPs**, each of which are Ontario Limited Partnerships). OTE GP and OL GP are together referred to herein as the **GPs** and all four entities together are referred to as the “**OTE Group**”

Further to our call on November 27, 2024, we wanted to provide some additional background on the HST matter we discussed so that you can seek instructions from the Canada Revenue Agency (“**CRA**”) on this matter. In a nutshell, subject to any direction as may be required from the Court, the Monitor wishes to engage in a discussion with the CRA regarding remittance of HST on lease payments made by certain of the OTE Group entities to the Royal Bank of Canada (“**RBC**”) in respect of equipment that had been leased to the OTE Group and on professional fees charged by the Monitor and its counsel and by the OTE Group’s counsel. RBC has notified the Monitor and the OTE Group that HST may have been applicable on lease payments and has requested that the OTE Group remit the HST on those lease payments to RBC for payment to CRA. Prior to doing so, the Monitor requests, on behalf of the OTE Group and all remitters, waiver of any interest and penalties given that the OTE Group is in insolvency proceedings under the CCAA, which includes a stay of proceedings and claims pursuant to an initial order granted on January 30, 2023. A copy of the Amended & Restated Initial Order, which has been extended by the Court to April 25, 2024, is attached hereto. Additionally, the waiver is being sought on account of the reasonable and *bona fide* reliance on HST exemption certificates provided by the OTE Group to all remitters, as explained below.

The **business numbers** of the above entities are as follows:

OTE LP: 270936834

OL LP: 280459892

OTE GP: 2585997

OL GP: 2496750

By way of further background, RBC has acted as lessor of certain equipment to the OTE Group for the period beginning on October 15, 2021: RBC has not charged, collected or remitted HST in respect of lease payments (the **Lease Payments**) made to it by the OTE Group on the basis that RBC understood at the time that the entities within the OTE Group were exempt from having to pay GST/HST on purchases of certain services. The basis for this view was as follows:

1. Each of OTE LP and OL LP were engaged in the business of fuel-blending and selling gasoline to gas stations;
2. The fuel blending occurred on Indian reserves in Ontario, through the use of facilities and real property thereon;
3. Each of OTE LP and OL LP were partnerships with mixed status Indian and non-status Indian partners, whereby the status Indian partners (being Miles Hill and Scott Hill) had provided proof of Indian status; and

4. Each of OTE LP and OL LP had provided proof of valid Certificates of Indian Status for their respective Status Indian partners that was sufficient for the GST/HST exemption (the **Certificates**) and met the CRA requirements outlined in *GST/HST Administrative Policy B-039 - Application of the GST/HST to Indians (B-039)*. A sample copy of such Certificates is attached hereto.

Certificates were also provided to professional firms retained to assist the OTE Group in connection with their insolvency and CCAA proceedings, including the OTE Group's counsel, Aird & Berlis LLP and KPMG Inc., which was retained as financial advisor to the OTE Group and then as Court-appointed Monitor in the CCAA proceeding, and Bennett Jones LLP, which was retained as the Monitor's counsel, with all fees and disbursements of these professional firms (collectively the "**Professionals**") being payable by the OTE Group.

Kimberly Thomas Professional Corporation ("KTPC") is Affiliated Independent Counsel with Aird & Berlis LLP and previous counsel to the OTE Group. KTPC is resident on a reserve and performed all services to the OTE Group on a reserve. Accordingly, the OTE Group did not remit HST on payments to KTPC, as KTPC is of the view that B-039 exempts the professional fees provided by KTPC to the OTE Group from HST, as the legal services were provided on a reserve to a partnership with mixed status Indian and non-status Indian partners; and the status Indian partners also provided proof of their Certificates to KTPC. As such, KTPC is excluded from the analysis or reference herein regarding the Professionals.

The OTE Group did not remit HST on payments to RBC and the Professionals, which relied upon the Certificates and therefore did not collect or remit HST on the lease payments (in the case of RBC) or professional fees and disbursements (in the case of the Professionals). Upon further review by RBC and the Professionals, it has come to light that the basis for the GST/HST exemption could potentially be challenged on the grounds that the services provided to the OTE Group may not be considered to be services "for real property situated on a reserve". RBC had further raised the question as to whether either of OTE LP or OL LP could qualify for the exemption, given that the GPs were corporations and not Status Indians.

Accordingly, RBC and the Professionals are seeking to remit the applicable HST amounts, in respect of the Lease Payments and Legal Fees, as follows:

Lease Payments HST Owing: ~\$576,405

Collective Professional fees and disbursements HST Owing: ~\$1,309,085

The Monitor understands that, as the OTE Group is comprised of HST registrants that have, at all relevant times, been engaged in commercial activities, the OTE Group entities should be entitled to claim input tax credits (**ITCs**) in respect of the above exigible HST. The Monitor further understands that interest and penalties on each of the above amounts would be approximately \$23,055, in respect of the Lease Payments HST Owing, and \$50,930, in respect of the Professional Fees HST Owing (collectively, the "**Interest & Penalties**"). The Monitor on behalf of the OTE Group is prepared to remit the amounts of HST owing to the CRA from the funds of the OTE Group, but is seeking a waiver of any respective Interest & Penalties owing, on the basis that RBC and each of the Professionals reasonably relied on the Certificates in not collecting HST and were entitled to do so under the provisions of the *Excise Tax Act* ("**ETA**") and CRA Policy B-039. We therefore seek your input and advice regarding the next steps, in terms of both remittance of the HST Owing and seeking a waiver of any Interest and Penalties.

The analysis of the legal and technical matters is set out below:

Taxation of First Nations

Any supplies of goods or services made in Canada that are not otherwise expressly exempt under the ETA are generally GST/HST taxable and the providers of those supplies must charge, collect and remit the appropriate GST/HST amounts.

Pursuant to section 87 of the Canadian federal *Indian Act* (the “IA”), certain exemptions from taxation are provided to those that qualify under the IA. The CRA has set out their policy on the application of section 87 of the IA with respect to GST/HST in B-039.

In B-039, the CRA has stated as follows with respect to partnerships: Sole proprietorships and partnerships owned by Indians receive the same treatment on purchases as Indians. If they are registered for the GST/HST, they, like all other businesses, must collect the GST/HST on their sales of taxable property and services (unless they are made to Indians, Indian bands or band-empowered entities under the conditions in which the GST/HST is not payable) and they can recover any GST/HST paid on their eligible off-reserve business purchases by claiming input tax credits.

In the case of purchases made by partnerships, tax relief is available for purchases made in either the Indian purchaser’s own name or the partnership name. Where a partnership has both Indian and non-Indian participants, relief from the GST/HST will apply fully to the partnership. However, all conditions for the Indian partner to receive tax relief on the acquisition must be met; that is, property must be acquired on a reserve or delivered to a reserve and the proper documentation must be maintained.

In B-039, the CRA further provides that " Indians must pay the GST/HST on all taxable services that are not performed or do not occur totally on a reserve, unless the service is purchased for real property interests on a reserve...".

When providing supplies to a status Indian (or a partnership with mixed non-status Indian and status Indian partners) that are alleged to be GST/HST exempt, the vendor must make a notation of the following information on the invoice or other sales document that will be retained by the vendor:

- where the Indian shows the original status card, the registry number or the band name and family number (commonly referred to as the band number/treaty number) found on those cards; and,
- where the Indian shows a Temporary Confirmation of Registration Document, the registration number and the expiration of such document.

Businesses owned by Indians are required to register for the GST/HST, as the Monitor understands was done in this case. Like other businesses, once registered, they must collect and remit the tax on their sales of property and services (unless the sales are made to Indians, Indian bands or band-empowered entities under conditions where the GST/HST is not payable). They may also claim ITCs for the GST/HST paid on purchases made in the course of their commercial activities, as the Monitor understands the OTE Group entities intend to do in this case after the HST is remitted.

Application to the Circumstances

At the relevant times, RBC, the Professionals and KTPC understood that each of OTE LP and OL LP had mixed non-status and status Indian partners. . Based upon an analysis conducted by KTPC, as counsel to the OTE Group, she advised that B-039 entitled partnerships with mixed status Indian and non-status Indian partners to HST exemption, provided it met the conditions in B-039. To qualify for HST exemption, KTPC advised that for services provided off-reserve, the status Indian partners of the OTE Group would have to provide a copy of their Certificates, which were provided.

Further, the services provided would have to be in relation to real property interests on a reserve. Based on KTPC’s analysis, the professional services in question here were considered to relate to real property situated on reserve, namely the considerable real property interests used in the fuel-blending business.

However, after further review, it was brought into question as to whether the leases for which Lease Payments were made satisfied the criteria of being related to real property situated on reserve. Additionally, RBC questioned as to whether either of OTE LP or OL LP could qualify for the exemption, given that the GPs were corporations and not Status Indians.

In light of the foregoing, RBC and the Professionals are in agreement that the OTE Group should remit the HST on the lease payments and Professional fees and disbursements. The Monitor is further of the view that if HST is remitted by the OTE Group, the OTE Group should be entitled to claim ITCs in respect of such exigible HST, subject to any views of the CRA or further directions of the Court.

We look forward to your response and would be happy to discuss any of the above with you at your earliest convenience.

Thank you,

Hennadiy

Hennadiy Kutsenko

Associate, Bennett Jones LLP

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

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Appendix “D”

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

THE HONOURABLE)	THURSDAY, THE 27TH
)	
JUSTICE OSBORNE	)	DAY OF APRIL, 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**")

CLAIMS PROCEDURE 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 (the "**Claims Procedure Order**"), inter alia, establishing a claims procedure for the identification and quantification of certain claims against (i) the Applicants, OTE Logistics LP and Original Traders Energy LP (with OTE Logistics LP, the "**Partnerships**" and collectively with the Applicants, the "**OTE Group**") and (ii) the current and former directors and officers of the OTE Group, was heard this day by videoconference at Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Third Report of KPMG Inc. (the "**Third Report**"), in its capacity as Court-appointed monitor of the OTE Group (the "**Monitor**"), and on hearing the submissions of respective counsel for the OTE Group, the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Samantha Hans sworn April 20, 2023, filed.

SERVICE

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion, the Motion Record, and the Third Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service or notice thereof.

DEFINITIONS AND INTERPRETATION

2. **THIS COURT ORDERS** that for the purposes of this Order, the following terms shall have the following meanings:

- (a) **“Assessments”** means any rights or claims of His Majesty the King in Right of Canada or of any province or territory or municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any existing or future notice of assessment, notice of objection, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority (including, for the avoidance of doubt, from any taxation authority in the United States), including without limitation in respect of any income taxes, sales taxes, excise taxes, harmonized sales taxes, goods and services taxes, and fuel taxes, and any Claims for interest or penalties in connection therewith;
- (b) **“Bar Date”** means the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable pursuant to the terms of this Order;

- (c) **“Business Day”** means, except as otherwise specified herein, a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (d) **“Books and Records”** means, collectively,
 - (i) the books and records provided to the Monitor by the OTE Group and/or any of their respective principals, agents or counsel;
 - (ii) information obtained by the Monitor pursuant to its information requests, including pursuant to its powers under the Initial Order and any other Order of this Court; and
 - (iii) any and all instruments registered on title to or in respect of the Property (as defined in the Initial Order) on or prior to the Filing Date;
- (e) **“CCAA Proceedings”** means the CCAA proceedings commenced by the Applicants in the Court under Court File No. CV-23-00693758-00CL;
- (f) **“Characterization”** means, for the purposes of this Order, solely whether the Claim is a secured or unsecured Claim, Pre-Filing Claim, Restructuring Period Claim or D&O Claim;
- (g) **“Claim”** means:
 - (i) any right or claim of any Person against any of the OTE Group, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of any such member of the OTE Group in existence

on the Filing Date, including any interest thereon or costs payable in respect thereof, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or claim with respect to any Assessment, or by reason of any equity interest, or by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty), or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against any of the OTE Group with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which right or claim, including in connection with indebtedness, liability or obligation, is based in whole or in part on facts that existed prior to the Filing Date, or any other right or claim of any kind that would have been a claim provable in bankruptcy had any of the OTE Group become bankrupt on the Filing Date, including for greater certainty any claim against any of the OTE Group for indemnification by any Director or Officer in respect of a Pre-Filing D&O Claim (but excluding any such claim

by a Director or Officer of any OTE Group entity for indemnification that is covered by the Directors' Charge (as defined in the Initial Order)), in each case, where such monies remain unpaid as of the date hereof (each, a "**Pre-Filing Claim**", and collectively, the "**Pre-Filing Claims**");

(ii) any right or claim of any Person against any of the OTE Group in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such member of the OTE Group to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach by such member of the OTE Group on or after the Filing Date of any contract, lease or other agreement or arrangement, whether written or oral (each, a "**Restructuring Period Claim**", and collectively, the "**Restructuring Period Claims**");

(iii) any right or claim of any Person against one or more of the Directors and/or Officers arising based in whole or in part on facts that existed prior to the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any

Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Pre-Filing D&O Claim**”, and collectively, the “**Pre-Filing D&O Claims**”); and

- (iv) any right or claim of any Person against one or more of the Directors and/or Officers arising after the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Restructuring Period D&O Claim**”, collectively, the “**Restructuring Period D&O Claims**”);

provided, however, that in any case “**Claim**” shall not include an Excluded Claim, but for greater certainty, shall include any Claim of any insurer under a director and officer insurance policy arising through subrogation against member of the OTE Group or any Director or Officer;

- (h) **“Claimant”** means (a) a Person, including without limitation a Known Claimant asserting a Pre-Filing Claim or a Restructuring Period Claim against any of the OTE Group, or (b) a Person, including without limitation a Known Claimant asserting a D&O Claim against any of the Directors or Officers;
- (i) **“Claims Bar Date”** means 5:00 PM (Eastern Time) on June 27, 2023, or such later date as may be ordered by this Honourable Court;
- (j) **“Claims Officer”** means the individual(s) designated by the Court pursuant to paragraph 34 of this Order;
- (k) **“Claims Package”** means the document package to be disseminated by the Monitor in accordance with the terms of this Order, which shall consist of a Proof of Claim form, a Proof of Claim Instruction Letter, a D&O Proof of Claim form, a D&O Claim Instruction Letter, and such other materials as the OTE Group, in consultation with the Monitor, may consider appropriate;
- (l) **“Claims Procedure”** means the procedures outlined in this Order, including the Schedules hereto, in connection with the assertion of Claims against the OTE Group and/or the Directors and Officers, or any of them, as amended or supplemented by further order of the Court;
- (m) **“Court”** or this **“Honourable Court”** means the Ontario Superior Court of Justice (Commercial List);

- (n) “**D&O Claim**” means any Pre-Filing D&O Claim or Restructuring Period D&O Claim, and “**D&O Claims**” means, collectively, the Pre-Filing D&O Claims and the Restructuring Period D&O Claims;
- (o) “**D&O Claim Instruction Letter**” means the letter containing instructions for completing the D&O Proof of Claim form, substantially in the form attached as Schedule “D” hereto;
- (p) “**D&O Proof of Claim**” means the proof of claim to be filed by Claimants in connection with any D&O Claim, substantially in the form attached as Schedule “E” hereto, which shall include all available supporting documentation in respect of such D&O Claim;
- (q) “**Directors**” means all current or former directors (or their estates) of any of the OTE Group, in such capacity, or any who may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any member of the OTE Group, and “**Director**” means any one of them;
- (r) “**Employee**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a current or former employee of any of the OTE Group whether on a full-time, part-time or temporary basis, other than a Director or Officer, including any individuals on disability leave, parental leave or other absence;

- (s) **“Excluded Claim”** means any:
 - (i) Claim that may be asserted by any beneficiary of the Administration Charge, the Directors’ Charge and the RBC Security, (as such terms are defined in the Initial Order), and any further Court-ordered charges in these CCAA proceedings;
 - (ii) Intercompany Claim; and
 - (iii) Claim that may be asserted by any of the OTE Group entities or by the Monitor, including, without limitation, pursuant to section 36.1 of the CCAA and sections 95 and 96 of the *Bankruptcy and Insolvency Act*, against any Directors and/or Officers;
- (t) **“Filing Date”** means January 30, 2023;
- (u) **“Initial Order”** means the order of the Honourable Justice Osborne dated January 30, 2023 issued pursuant to the CCAA, as amended by the order of the Honourable Justice Osborne dated February 9, 2023, and as further amended, restated or varied from time to time;
- (v) **“Instruction Letter”** means a letter to Claimants regarding the Claims Procedure containing instructions regarding the completion and return of a Proof of Claim, substantially in the form attached at **Schedule “B”** herein;
- (w) **“Intercompany Claim”** means any Claim that may be asserted against any of the OTE Group by or on behalf of any of the OTE Group or any of their affiliated

companies or partnerships. For greater certainty, an Intercompany Claim shall not include any Claim of a current or former shareholder, partner or limited partner of any OTE Group entity against such OTE Group entity;

(x) **“Known Claimants”** means:

- (i) those Claimants which the Books and Records disclose were owed monies as Claimants by one or more of the OTE Group as of the Filing Date and which monies remain unpaid in whole or in part; and
- (ii) any Person which commenced a legal proceeding against any of the OTE Group, including the Directors or Officers, which legal proceeding was commenced and served upon such member of the OTE Group or such Director or Officer prior to the Filing Date and is known to the Monitor as of the date of the Claims Procedure Order;

(y) **“Meeting”** means any meeting of the creditors of the OTE Group, or of any one or more of them, called for the purpose of considering and voting in respect of a Plan;

(z) **“Monitor’s Website”** means the case website established by the Monitor with the following URL: <http://home.kpmg/ca/OTEGroup>;

(aa) **“Notice of Dispute of Revision or Disallowance”** means the notice, substantially in the form attached as Schedule “G” hereto, which may be delivered to the Monitor by a Claimant disputing a Notice of Revision or Disallowance received by such Claimant;

- (bb) **“Notice of Revision or Disallowance”** means the notice, substantially in the form attached as Schedule “F” hereto, which may be prepared by the OTE Group, in consultation with the Monitor, and delivered by the Monitor to a Claimant revising or disallowing, in part or in whole, a Claim submitted by such Claimant in a Proof of Claim or D&O Proof of Claim;
- (cc) **“Notice to Claimants”** means the notice for publication by the Monitor as described in paragraph 12(d) herein, substantially in the form attached as Schedule “A” hereto;
- (dd) **“Officers”** means all current and former officers (or their estates) of any of the OTE Group, in such capacity, or anyone who may be deemed to be or have been, whether by statute, operation or law or otherwise, an officer or *de facto* officer of any of the OTE Group, and **“Officer”** means any of them;
- (ee) **“Order”** means this Claims Procedure Order;
- (ff) **“Person”** means any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust (including a real estate investment trust), joint venture, unincorporated organization, governmental unit, body or agency or any instrumentality thereof, Canadian or non-Canadian regulatory body or agency or any instrumentality thereof, or any other entity;
- (gg) **“Plan”** means any proposed plan of compromise, arrangement or reorganization that may be filed in respect of any or all of the OTE Group pursuant to the CCAA

as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof;

- (hh) **“Proof of Claim”** means the proof of claim to be submitted or delivered to the Monitor by a Claimant in respect of any Pre-Filing Claim and/or Restructuring Period Claim, substantially in the form attached as Schedule “C” hereto, which shall include all available supporting documentation in respect of such Claim;
- (ii) **“Proof of Claim Instruction Letter”** means the letter containing instructions for completing the Proof of Claim form, substantially in the form attached as Schedule “B” hereto;
- (jj) **“Restructuring Period Claims Bar Date”** means, in respect of a Restructuring Period Claim or Restructuring Period D&O Claim, the later of: (i) the Claims Bar Date; and (ii) 5:00 p.m. (Eastern Time) on the day which is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim or a Restructuring Period D&O Claim to a Claimant;

3. **THIS COURT ORDERS** that, except where otherwise specified herein, all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein, and any reference to an event occurring on a day that is not a Business Day shall mean the next following day that is a Business Day.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”, all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

5. **THIS COURT ORDERS** that all Claims filed shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the Filing Date, which for the United States dollar is USD\$1:CAD\$1.3356.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that notwithstanding any other provisions of this Order, the solicitation by the OTE Group and the Monitor of Proofs of Claims and D&O Proofs of Claims, and the filing by any Claimant of any Proof of Claim and D&O Proof of Claim shall not, for that reason only, grant any Person any rights, including without limitation, in respect of the nature, quantum and priority of its Claims or standing in the CCAA Proceedings or rights under a Plan, except as specifically set out in this Order.

7. **THIS COURT ORDERS** that the Monitor, in consultation with the OTE Group, and if applicable, the applicable Directors and Officers in respect of any D&O Claims, is hereby authorized to use reasonable discretion to determine the adequacy of compliance with respect to the manner in which any forms submitted or delivered hereunder are completed and executed, and the time in which they are submitted, and may, where the Monitor, in consultation with the OTE Group and, if applicable, the applicable Directors and Officers in respect of any D&O Claims, is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms

and to request any further documentation from a Claimant that the Monitor, the OTE Group and the applicable Directors and Officers in respect of any D&O Claims, may require.

8. **THIS COURT ORDERS** that amounts claimed in Assessments shall be subject to this Order and there shall be no presumption of validity or deeming of the amount due in respect of the Claim set out in any Assessment.

MONITOR'S ROLE

9. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, shall assist the OTE Group in the administration of the Claims Procedure provided for herein, including the determination and resolution of Claims, if applicable, and is hereby authorized, directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

10. **THIS COURT ORDERS** that the Monitor: (i) shall have all of the protections afforded to it by the CCAA, this Order, the Initial Order, any other orders of the Court in the CCAA Proceedings, and other applicable law, or as an officer of the Court, in connection with its activities in respect of this Order, including the stay of proceedings in its favour pursuant to the Initial Order; (ii) shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, other than in respect of its gross negligence or wilful misconduct; (iii) shall be entitled to rely on the books and records of the OTE Group and any information provided by any of the OTE Group, all without independent investigation; (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information; and (v) may seek such assistance as may be reasonably required to carry out its duties and obligations pursuant to

this Order from the OTE Group or any of their affiliated companies, partnerships, or other corporate entities, including making such inquiries and obtaining such records and information as it deems appropriate in connection with the Claims Procedure.

11. **THIS COURT ORDERS** that the OTE Group, the Directors, the Officers and their respective employees, agents and representatives and any other Person given notice of this Order shall fully cooperate with and assist the Monitor in the exercise of its powers and the discharge of its duties and obligations under this Order.

NOTICE TO CLAIMANTS

12. **THIS COURT ORDERS** that:

- (a) The OTE Group shall, no later than five (5) Business Days following the granting of this Order, provide to the Monitor a complete list of Known Claimants which the Books and Records disclose were owed monies as Claimants by one or more of the OTE Group as of the Filing Date and which monies remain unpaid in whole or in part, and/or confirm to the Monitor that the Monitor is already in possession of such list;
- (b) The Monitor shall post a copy of this Order and the Claims Package on the Monitor's Website as soon as practicable after the date of this Order but no later than five (5) Business Days following the granting of this Order;
- (c) The Monitor shall, as soon as practicable, but no later than ten (10) Business Days following the granting of this Order, send to each of the Known Claimants, as evidenced by the Books and Records of the OTE Group, at their last known

municipal or e-mail address as recorded in the OTE Group's Books and Records a copy of the Claims Package;

- (d) The Monitor shall cause to be published for at least two (2) Business Days in consecutive weeks the Notice to Claimants in *The Globe and Mail* (National Edition) as soon as practicable after the date of this Order, with the first such notice to be published no later than seven (7) Business Days following the granting of this Order; and
- (e) The Monitor shall, provided such request is received prior to the Claims Bar Date, deliver as soon as reasonably possible following receipt of a request therefor a copy of the Claims Package to any Person claiming to be a Claimant and requesting such material in writing.

13. **THIS COURT ORDERS** that any notices of disclaimer or resiliation delivered after the date of this Order to potential Claimants in connection with any action taken by the OTE Group or the Monitor to restructure, disclaim, resiliate, terminate or breach any contract, lease or other agreement, whether written or oral, pursuant to the terms of the Initial Order, shall be accompanied by a Claims Package.

14. **THIS COURT ORDERS** that the form and substance of the Claims Procedure, this Order and all Schedules, substantially in the forms attached as schedules hereto, are hereby approved. Notwithstanding the foregoing, the OTE Group, in consultation with the Monitor, may, from time to time, make non-substantive changes to the forms as they may consider necessary or desirable.

15. **THIS COURT ORDERS** that the sending of the Claims Package either electronically or physically to the applicable Persons as described above, the publication of the Notice to Claimants, each in accordance with this Order, and the completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order. All Persons (including Claimants) are bound by the timelines set out in this Order and any notices published in accordance with the terms of this Order, regardless of whether or not they received actual notice, such that it is the sole obligation of any Person asserting a Claim to file such Claim with the Monitor in accordance with the terms of this Order and the applicable Bar Date set out in this Order.

16. **THIS COURT ORDERS** that the Monitor shall be entitled to rely on the accuracy and completeness of the information obtained from the Books and Records of the OTE Group regarding the Known Claimants. For greater certainty, the Monitor shall have no liability in respect of the information provided to it or otherwise obtained by it regarding the Known Claimants and shall not be required to conduct any independent inquiry and investigation with respect to that information.

CLAIMS PROCEDURE

(A) Pre-Filing Claims and Pre-Filing D&O Claims

17. **THIS COURT ORDERS** that any Claimant that intends to assert a Pre-Filing Claim or a Pre-Filing D&O Claim shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor so that it is actually received by the Monitor on or before the Claims Bar Date. Proofs of Claim and D&O Proofs of Claim may be submitted to the Monitor in accordance with the

provisions of this Order. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim, as applicable, must be filed with the Monitor by every Claimant in respect of every Pre-Filing Claim and every Pre-Filing D&O Claim, regardless of whether or not a legal proceeding in respect of such Pre-Filing Claim or Pre-Filing D&O Claim has been previously commenced.

18. **THIS COURT ORDERS** that any Claimant that does not file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor on or before the Claims Bar Date, or such later date as the Monitor, in consultation with the OTE Group, may agree in writing or the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s) against the OTE Group, the OTE Group shall not have any liability whatsoever in respect of any such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s), and all such Pre-Filing Claims or Pre-Filing D&O Claims shall be forever extinguished without any further act or notification by the OTE Group or the Monitor;
- (b) will not be permitted to vote at any Meeting on account of such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s);
- (c) will not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or these CCAA proceedings with respect to such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s);
and

- (d) will not be permitted to participate in any distribution under any Plan or otherwise on account of such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s).

(B) Restructuring Period Claims

19. **THIS COURT ORDERS** that, upon becoming aware of a circumstance giving rise to a potential Restructuring Period Claim or Restructuring Period D&O Claim, the Monitor, in consultation with the OTE Group, shall send a Claims Package, as appropriate, to the Claimant in respect of such potential Restructuring Period Claim or Restructuring Period D&O Claim in the manner provided for herein.

20. **THIS COURT ORDERS** that any Claimant that intends to assert a Restructuring Period Claim or a Restructuring Period D&O Claim shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor so that it is actually received by the Monitor on or before the Restructuring Period Claims Bar Date. Proofs of Claim and D&O Proofs of Claim may be submitted to the Monitor in accordance with the provisions of this Order hereto. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim must be filed with the Monitor by every Claimant in respect of every Restructuring Period Claim and every Restructuring Period D&O Claim, regardless of whether or not a legal proceeding in respect of such Restructuring Period Claim or Restructuring Period D&O Claim has been previously commenced.

21. **THIS COURT ORDERS** that any Claimant that intends to assert a Restructuring Period Claim or Restructuring Period D&O Claim, that does not file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor on or before the Restructuring Period Claims Bar Date, or such later date as the Monitor, in consultation with the OTE Group, may agree in writing or the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s), the OTE Group shall not have any liability whatsoever in respect of any such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s), and all such Restructuring Period Claims or Restructuring Period D&O Claims shall be forever extinguished without any further act or notification by the OTE Group or the Monitor;
- (b) will not be permitted to vote at any Meeting on account of such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s);
- (c) will not be entitled to receive further notice with respect to, and shall not be entitled to participate as a Claimant or creditor in, the Claims Procedure or these CCAA Proceedings with respect to such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s); and
- (d) will not be permitted to participate in any distribution under any Plan or otherwise on account of such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s).

(C) Adjudication and Resolution of Claims

22. **THIS COURT ORDERS** that the Monitor, in consultation with the OTE Group, shall review and record all Proofs of Claim and D&O Proofs of Claim that are received on or before the applicable Bar Date.

23. **THIS COURT ORDERS** that the Monitor shall make reasonable efforts to promptly deliver a copy of any D&O Proofs of Claim, Notices of Revision or Disallowance with respect to any D&O Claim, and Notices of Dispute of Revision or Disallowance with respect to any D&O Claim, to the applicable Directors and Officers named therein.

24. **THIS COURT ORDERS** that, (i) the Monitor, in consultation with and on behalf of the OTE Group, shall accept, revise or reject each Claim set out in each Proof of Claim, and (ii) with respect to a D&O Claim set out in a D&O Proof of Claim, the Monitor, in consultation with and on behalf of the OTE Group and the applicable Directors and Officers named in respect of such D&O Claim, shall accept, revise or reject such D&O Claim, provided that the Monitor shall not accept or revise any portion of a D&O Claim absent consent of the applicable Director(s) and Officer(s) or further Order of the Court.

25. **THIS COURT ORDERS** that, if the Monitor, in consultation with the OTE Group, agrees with the amount and Characterization of the Claim as set out in any Proof of Claim or D&O Proof of Claim filed in accordance with the provisions of this Order and intend to accept the Claim, the Monitor shall notify such Claimant of the acceptance of its Claim by the OTE Group.

26. **THIS COURT ORDERS** that, if the Monitor, in consultation with the OTE Group, disagrees with the amount or Characterization of the Claim as set out in any Proof of Claim or D&O Proof of Claim filed in accordance with the provisions of this Order, the Monitor shall, in consultation with the OTE Group and any applicable Directors or Officers, attempt to resolve such dispute and settle the purported Claim with the Claimant for voting and/or distribution purposes.

27. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 22, if the OTE Group and the Monitor intend to revise or reject a Claim that has been filed with the Monitor, the

Monitor shall notify the applicable Claimant that its Claim has been revised or rejected for voting and/or distribution purposes, and the reasons therefor, by sending a Notice of Revision or Disallowance. The Monitor, in consultation with the OTE Group, may allow a Claim for voting purposes and may revise or disallow the Claim for distribution purposes provided it does so in the Notice of Revision or Disallowance.

28. **THIS COURT ORDERS** that any Claimant who intends to dispute a Notice of Revision or Disallowance received from the Monitor shall deliver a completed Notice of Dispute of Revision or Disallowance, along with the reasons for its dispute, to the Monitor such that it is received by the Monitor by no later than thirty (30) days after the date on which the Claimant is deemed to receive the Notice of Revision or Disallowance, or such other date as may be agreed to by the Monitor, in consultation with the OTE Group, in writing.

29. **THIS COURT ORDERS** that, where a Claimant who receives a Notice of Revision or Disallowance does not file a completed Notice of Dispute of Revision or Disallowance by the time set out in paragraph 28 above, then such Claimant's Claim shall be deemed to be as determined in the Notice of Revision or Disallowance and any and all of the Claimant's rights to dispute the Claim as determined in the Notice of Revision or Disallowance or to otherwise assert or pursue such Claim other than as determined in the Notice of Revision or Disallowance shall be forever extinguished and barred without further act or notification.

30. **THIS COURT ORDERS** that upon receipt of a Notice of Dispute of Revision or Disallowance in respect of a Claim, the Monitor, the OTE Group and any applicable Directors or Officers, shall attempt to resolve such dispute and settle the purported Claim with the Claimant, and in the event that a dispute raised in a Notice of Dispute of Revision or Disallowance is not

settled within a time period or in a manner satisfactory to the Monitor, in consultation with the OTE Group and any applicable Directors or Officers, the Monitor shall, at its election, refer the dispute raised in the Notice of Dispute of Revision or Disallowance to the Court or a Claims Officer appointed by the Court for adjudication, and the Monitor shall send written notice of such referral to the Claimant.

31. **THIS COURT ORDERS** that notwithstanding any other provisions of this Order, the Monitor, in consultation with the OTE Group and any applicable Directors or Officers, may, at its election, refer any Claim to the Court or a Claims Officer appointed by the Court for adjudication at any time, and the Monitor shall send written notice of such referral to the applicable parties.

32. **THIS COURT ORDERS** that, for greater certainty, no Person holding an Excluded Claim shall be required to file a Proof of Claim in respect of such Excluded Claim, and such Person shall be unaffected by this Order in respect of such Excluded Claim.

33. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of Claims into particular classes for the purpose of the Plan and, for greater certainty, the treatment of Claims, or any other claims and classification of Claimants for voting and distribution purposes, shall be subject to the terms of a Plan or further Order of this Court.

CLAIMS OFFICER

34. **THIS COURT ORDERS** that one or more Persons may be appointed by the Court from time to time on a motion by the OTE Group or the Monitor as the Claims Officer for the Claims Procedure.

35. **THIS COURT ORDERS** that the decision as to whether a disputed Claim should be adjudicated by the Court or a Claims Officer shall be in the discretion of the OTE Group, in consultation with the Monitor.

36. **THIS COURT ORDERS** that, where a disputed Claim has been referred to a Claims Officer, the Claims Officer shall determine the classification, validity and/or amount of such disputed Claim in accordance with this Order and, to the extent necessary, may determine whether any Claim or part thereof constitutes an Excluded Claim, and shall provide written reasons. Where a disputed Claim has been referred to a Claims Officer, the Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including any participation rights for any stakeholder and the manner in which any evidence may be adduced. The Claims Officer shall have the discretion to mediate any dispute that is referred to such Claims Officer at its election. The Claims Officer shall also have the discretion to determine by whom and to what extent the costs of any hearing or mediation before a Claims Officer shall be paid.

37. **THIS COURT ORDERS** that the Monitor, the Claimant, the OTE Group and/or, in respect of any D&O Claim, the applicable Directors and Officers, or any other stakeholder (if applicable) may, within ten (10) days of such party receiving notice of a Claims Officer's determination of the amount and Characterization of a Claimant's Claim or any other matter

determined by the Claims Officer, appeal such determination to the Court by filing a notice of appeal, and the appeal shall, subject to the availability of the Court, be initially returnable for scheduling purposes within ten (10) days of filing such notice of appeal.

38. **THIS COURT ORDERS** that, if no party appeals any determination of any Claims Officer within the time set out in paragraph 37 above, the decision of the Claims Officer in determining the amount and Characterization of the Claimant's Claim or any other matter determined by the Claims Officer in accordance with paragraph 37 shall be final and binding upon the applicable OTE Group, the applicable Directors and Officers in respect of any D&O Claim, the Monitor, the Claimant and any other applicable stakeholder and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination of a Claim.

NOTICE TO TRANSFEREES

39. **THIS COURT ORDERS** that, subject to the terms of any subsequent Order of this Court, if, after the Filing Date, the holder of a Claim transfers or assigns its Claim to another Person, neither the Monitor nor any of the OTE Group shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Monitor and acknowledged by the Monitor in writing and thereafter such transferee or assignee shall, for the purposes hereof, constitute the "Claimant" in respect of such Claim, and the OTE Group and the Monitor shall thereafter only be required to deal with such transferee or assignee and not the original Claimant. Any such transferee or assignee of such Claim shall be bound by any notices given or steps taken or not taken in respect of such Claim in accordance with this Order prior to receipt by the Monitor and acknowledgement by the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim

takes the Claim subject to any rights of set-off to which the OTE Group and/or the applicable Directors and Officers may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim shall not be entitled to set-off, apply, merge, consolidate or combine any Claim assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the OTE Group or the applicable Directors and Officers.

SERVICE AND NOTICE

40. **THIS COURT ORDERS** that the OTE Group and the Monitor may, unless otherwise specified by this Order, serve and deliver or cause to be served and delivered the Claims Package, and any letters, notices or other documents, to the appropriate Claimants or any other interested Persons by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons or their counsel at the physical or electronic address, as applicable, shown on the Books and Records of the OTE Group or, where applicable, as set out in such Claimant's Proof of Claim or D&O Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario) or within the United States (other than within California), as applicable, and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day, and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

41. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Claimant to the Monitor or the OTE Group under this Order shall, unless otherwise specified in this Order, be in writing in substantially the form, if any, provided for in this Order

and will be sufficiently given only if delivered by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to:

If to the Monitor:

KPMG Inc.
Bay Adelaide Centre, 333 Bay St. #4600
Toronto, ON M5H 2S5

Attention: Chris Gard and Broderick Lomax
Email: cgard@kpmg.ca; blomax@kpmg.ca;
and OTEGroup@kpmg.ca

With a copy to Bennett Jones LLP
100 King Street West, Suite 3400
Toronto, ON M5X 1A4
Attention: Raj Sahnir, Danish Afroz and
Thomas Gray
Email: sahnir@bennettjones.com,
afrozd@bennettjones.com and
grayt@bennettjones.com

If to the OTE Group:

Aird & Berlis LLP
Brookfield Place, 181 Bay St. #1800
Toronto, ON M5J 2T9

Attention: Steven Graff, Tamie Dolny and
Samantha Hans
Email: sgraff@airdberlis.com,
tdolny@airdberlis.com and
shans@airdberlis.com

Any such notice or communication delivered by a Claimant shall be deemed received if delivered by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email, upon actual receipt thereof before 5:00 p.m. on a Business Day, or if delivered outside of normal business hours, the next Business Day. For greater certainty, a copy of any correspondence delivered by the Claimant to the OTE Group must also have been delivered to the Monitor.

42. **THIS COURT ORDERS** that if, during any period during which notices or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received shall not be effective, and all notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile

transmission or email in accordance with this Order, in each case unless otherwise determined by the Monitor, in its reasonable discretion and in consultation with the OTE Group.

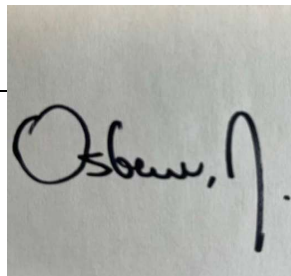
MISCELLANEOUS

43. **THIS COURT ORDERS** that the OTE Group or the Monitor may from time to time apply to this Court to extend the time for any action which the OTE Group or the Monitor are required to take if reasonably required to carry out their respective duties and obligations pursuant to this Order and for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

44. **THIS COURT ORDERS** that nothing in this Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the OTE Group's insurance or any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or any OTE Group; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that he or she is covered by, where and if available, the OTE Group' insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against a OTE Group or Director or Officer, as applicable.

45. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Florida, or in any other foreign jurisdiction, 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 and agencies 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 or to assist the OTE Group and the Monitor and their respective agents in carrying out the terms of this Order.

46. **THIS COURT ORDERS** that this Order is effective from today's date as of 12:01 a.m. Eastern Standard/Daylight Time and is enforceable without the need for entry or filing.

A handwritten signature in black ink, appearing to read "Osborn, J.", is written over a light gray rectangular background.

2023.04.2

8 07:18:38

-04'00'

SCHEDULE "A"

NOTICE TO CLAIMANTS OF ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC., OTE LOGISTICS LP AND ORIGINAL TRADERS ENERGY LP

(collectively, the "OTE Group")

RE: NOTICE OF CLAIMS PROCEDURE

NOTICE IS HEREBY GIVEN that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made on April 27, 2023 (the "**Claims Procedure Order**"), a claims procedure has been commenced for the identification, quantification, and resolution of certain claims of creditors of the OTE Group and their respective directors and officers (the "**Claims Procedure**"). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

PLEASE TAKE NOTICE that any Person that wishes to assert a Pre-Filing Claim or a Pre-Filing D&O Claim (against any of the current or former Directors or Officers of the OTE Group), other than an Excluded Claim, must deliver to KPMG Inc., in its capacity as the court-appointed monitor of the OTE Group (the "**Monitor**") on or before the Claims Bar Date a completed Proof of Claim form or a completed D&O Proof of Claim, as applicable, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

Pursuant to the Claims Procedure Order, the Claims Bar Date is 5:00 p.m. (Eastern Time) on June 27, 2023. Proofs of Claim in respect of Pre-Filing Claims and D&O Proofs of Claim in respect of D&O Claims must be completed and filed with the Monitor such that it is received on or before the Claims Bar Date.

PLEASE TAKE NOTICE that any Person that wishes to assert a Restructuring Period Claim or a Restructuring Period D&O Claim, other than an Excluded Claim, must deliver to the Monitor on or before the Restructuring Claims Bar Date a completed Proof of Claim form or a D&O Proof of Claim, as applicable, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Order.

Pursuant to the Claims Procedure Order, the Restructuring Period Claims Bar Date is 5:00 pm (Eastern Time) on the later of the Claims Bar Date and the date that is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim or a Restructuring Period D&O Claim to a Claimant. Proofs of Claim in respect of Restructuring Period Claims or D&O Proofs of Claim in respect of Restructuring Period D&O Claims must be completed and filed with the Monitor such that they are received on or before the Restructuring Period Claims Bar Date.

Pursuant to the Claims Procedure Order, the Monitor will cause Claims Packages to be sent to all Known Claimants on or before Thursday, May 11, 2023. A copy of the Claims Procedure Order and the Claims Package can be found at the following website: <http://home.kpmg/ca/OTEGroup>

CLAIMS WHICH ARE NOT RECEIVED BY THE APPLICABLE BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.

CLAIMANTS REQUIRING INFORMATION or claim documentation may contact the Monitor at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

KPMG Inc., Court-appointed Monitor of the OTE Group

Claims Process

333 Bay Street, Suite 4600

Bay Adelaide Centre

Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax

Telephone: 1-833-665-0666 (toll free within North America)

416-468-7000 (local)

Fax: 416-777-8818

Email: OTEGroup@kpmg.ca

SCHEDULE “B”

PROOF OF CLAIM INSTRUCTION LETTER OF ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC., OTE LOGISTICS LP AND ORIGINAL TRADERS ENERGY LP

(collectively, the “OTE Group”)

CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated April 27, 2023 (as such Order may be amended from time to time, the “**Claims Procedure Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “CCAA”), the OTE Group and KPMG Inc., in its capacity as the Court-appointed monitor of the OTE Group (the “**Monitor**”), have been authorized to conduct a claims procedure (the “**Claims Procedure**”). A copy of the Claims Procedure Order and other public information concerning this proceeding can be obtained from the Monitor’s website at <http://home.kpmg/ca/OTEGroup>.

This letter provides general instructions for completing a Proof of Claim form. Capitalized terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure is intended to identify and determine the amount of any claims against the OTE Group or any or all of their respective current or former Directors or Officers, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise or arrangement being pursued by the OTE Group under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All forms and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

KPMG Inc., Court-appointed Monitor of the OTE Group

Claims Process

333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax
Telephone: 1-833-665-0666 (toll free within North America)
416-468-7000 (local)
Fax: 416-777-8818
Email: OTEGroup@kpmg.ca

FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Pre-Filing Claim against any of the OTE Group, you must complete and file a Proof of Claim form with the Monitor. All Proofs of Claim for Pre-Filing Claims (i.e. Claims against the OTE Group arising prior to the Filing Date) **must be received by the Monitor before 5:00 p.m. (Eastern Time) on June 27, 2023** (the “**Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Claims by the Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding

any plan of compromise or arrangement being proposed by the OTE Group or participate in any distribution under such plan in respect of such Claims and any such Claims shall be forever extinguished and barred.

All Proofs of Claim for Restructuring Period Claims (i.e. Claims arising on or after the Filing Date arising out of the restructuring, disclaimer, repudiation or termination by the OTE Group of any contract, lease, employment agreement or arrangement or other agreement or obligation) **must be received by the Monitor before 5:00 p.m. (Eastern Time) on the later of the Claims Bar Date and the date that is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim** (the “**Restructuring Period Claims Bar Date**”). If you do not file a Proof of Claim in respect of any such Restructuring Period Claims by the Restructuring Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the OTE Group or participate in any distribution under such plan in respect of such Claims and any such Claims you may have against the OTE Group shall be forever extinguished and barred.

ADDITIONAL FORMS

Additional Proof of Claim forms can be obtained from the Monitor’s website at <http://home.kpmg/ca/OTEGroup> or by contacting the Monitor.

DATED this _____ day of _____, 2023.

SCHEDULE “C”

**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.**

PROOF OF CLAIM

**FOR CLAIMS AGAINST ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC.,
OTE LOGISTICS LP AND ORIGINAL TRADERS ENERGY LP**

(collectively, the “OTE Group”)

1. PARTICULARS OF CLAIMANT

(a) Full Legal Name of Claimant:

(b) Full Mailing Address of Claimant:

(c) Telephone Number of Claimant:

(d) Facsimile Number of Claimant:

(e) E-mail Address of Claimant:

(f) Attention (Contact Person):

2. **PARTICULARS OF ORIGINAL CLAIMANT FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes ☐ No ☐

(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original Claimant(s): _____

3. **PROOF OF CLAIM**

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

(a) That I am a Claimant of the OTE Group / I hold the position of _____ of the Claimant;

(b) That I have knowledge of all the circumstances connected with the Claim described and set out below;

(c) The OTE Group was and still is indebted to the Claimant as follows: ¹

Applicable OTE Group Debtor(s)	Pre-Filing Claim Amount	Restructuring Period Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned's Claims (including Pre-Filing Claims, and Restructuring Period Claims) are attached.

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim

¹ Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date

allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)

5. **FILING OF CLAIM**

For Pre-Filing Claims, this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Eastern Time) on the Claims Bar Date (June 27, 2023)**.

For Restructuring Period Claims, this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Eastern Time) on the later of the Claims Bar Date and the date that is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim**.

In both cases, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of the OTE Group
Claims Process

333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax
Telephone: 1-833-665-0666 (toll free within North America)
416-468-7000 (local)
Fax: 416-777-8818
Email: OTEGroup@kpmg.ca

DATED at _____ this _____ day of _____, 2023.

(signature of Claimant or its authorized representative)

Name:

Title:

Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

SCHEDULE “D”

D&O CLAIM INSTRUCTION LETTER

**FOR CLAIMS AGAINST DIRECTORS OR OFFICERS OF
ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC., OTE LOGISTICS LP AND
ORIGINAL TRADERS ENERGY LP**

(collectively, the “OTE Group”)

CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated April 27, 2023 (as such Order may be amended from time to time, the “**Claims Procedure Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “CCAA”), the OTE Group and KPMG Inc., in its capacity as the Court-appointed monitor of the OTE Group (the “**Monitor**”), have been authorized to conduct a claims procedure (the “**Claims Procedure**”). A copy of the Claims Procedure Order and other public information concerning this proceeding can be obtained from the Monitor’s website at <http://home.kpmg/ca/OTEGroup>.

This letter provides general instructions for completing a D&O Proof of Claim form. Capitalized terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure is intended to identify and determine the amount of any claims against the OTE Group or any or all of their respective current or former Directors or Officers, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise or arrangement being pursued by the OTE Group under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All forms and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

KPMG Inc., Court-appointed Monitor of the OTE Group

Claims Process

333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax
Telephone: 1-833-665-0666 (toll free within North America)
416-468-7000 (local)
Fax: 416-777-8818
Email: OTEGroup@kpmg.ca

FOR CREDITORS SUBMITTING A D&O PROOF OF CLAIM

If you believe that you have a D&O Claim against any of the Directors or Officers of the OTE Group, you must complete and file a D&O Proof of Claim form with the Monitor. All D&O Proofs of Claim for Pre-Filing D&O Claims (i.e. Claims against any of the Directors or Officers of the OTE Group arising prior to the Filing Date) **must be received by the Monitor before 5:00 p.m. (Eastern Time) on June 27, 2023**

(the “**Claims Bar Date**”). If you do not file a D&O Proof of Claim in respect of any such Claims by the Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the OTE Group or participate in any distribution under such plan in respect of such Claims and any such Claims shall be forever extinguished and barred.

All D&O Proofs of Claim for Restructuring Period D&O Claims (i.e. D&O Claims arising on or after the Filing Date) **must be received by the Monitor before 5:00 p.m. (Eastern Time) on the later of the Claims Bar Date and the date that is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim** (the “**Restructuring Period Claims Bar Date**”). If you do not file a D&O Proof of Claim in respect of any such Restructuring Period D&O Claims by the Restructuring Claims Bar Date, you shall not be entitled to vote at the meeting of creditors regarding any plan of compromise or arrangement being proposed by the OTE Group or participate in any distribution under such plan in respect of such Claims and any such Claims you may have against the OTE Group shall be forever extinguished and barred.

ADDITIONAL FORMS

Additional Proof of Claim forms can be obtained from the Monitor’s website at <http://home.kpmg/ca/OTEGroup> or by contacting the Monitor.

DATED this _____ day of _____, 2023.

SCHEDULE “E”

**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.**

D&O PROOF OF CLAIM

**FOR CLAIMS AGAINST DIRECTORS OR OFFICERS OF
ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC., OTE LOGISTICS LP AND
ORIGINAL TRADERS ENERGY LP**

(collectively, the “OTE Group”)

6. PARTICULARS OF CLAIMANT

(a) Full Legal Name of Claimant:

(b) Full Mailing Address of Claimant:

(c) Telephone Number of Claimant:

(d) Facsimile Number of Claimant:

(e) E-mail Address of Claimant:

(f) Attention (Contact Person):

7. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes ☐ No ☐

(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original Claimant(s): _____

8. **PROOF OF CLAIM**

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

- (a) That I am a Claimant of the Director(s) or Officer(s) of the OTE Group / I hold the position of _____ of the Claimant;
- (b) That I have knowledge of all the circumstances connected with the Claim described and set out below;
- (c) The Director(s) or Officer(s) of the OTE Group was and still is indebted to the Claimant as follows:²

Applicable Directors and/or Officers of the OTE Group	Pre-Filing D&O Claim Amount	Restructuring Period D&O Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any

9. **PARTICULARS OF CLAIM:**

The particulars of the undersigned's Claims (including Pre-Filing D&O Claims, and Restructuring Period D&O Claims) are attached.

(Specify the applicable Directors or Officers and the legal basis for the Claims against them. Provide full particulars of the Claim and supporting documentation, including amount, description

² Any Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average exchange rate for that currency against the Canadian Dollar on the Filing Date

of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)

10. **FILING OF CLAIM**

For Pre-Filing D&O Claims, this D&O Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the Claims Bar Date (June 27, 2023)**.

For Restructuring Period D&O Claims, this D&O Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the later of the Claims Bar Date and the date that is thirty (30) days after the Monitor sends a Claims Package with respect to a Restructuring Period Claim.**

In both cases, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of the OTE Group
Claims Process

333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax
Telephone: 1-833-665-0666 (toll free within North America)
416-468-7000 (local)
Fax: 416-777-8818
Email: OTEGroup@kpmg.ca

DATED at _____ this _____ day of _____, 2023.

(signature of Claimant or its authorized representative)

Name:

Title:

Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

SCHEDULE “F”

**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.**

NOTICE OF REVISION OR DISALLOWANCE

**FOR CLAIMS AGAINST ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC.,
OTE LOGISTICS LP AND ORIGINAL TRADERS ENERGY LP (collectively, the “OTE
Group”) AND/OR AGAINST THE DIRECTORS AND/OR OFFICERS OF THE OTE GROUP**

TO: [insert name and address of creditor]

Capitalized terms not defined in this Notice of Revision or Disallowance have the meaning ascribed to them in the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of the Applicants dated April 27, 2023 (the “**Claims Procedure Order**”).

Pursuant to the Claims Procedure Order, KPMG Inc. in its capacity as the court-appointed monitor of the Applicants (the “**Monitor**”) hereby gives you notice that it has reviewed your Proof of Claim or D&O Proof of Claim and has revised or disallowed all or part of your Claim. Subject to further dispute by you in accordance with the Claims Procedure Order, your Proven Claim will be as follows:

Name of relevant OTE Group entity and/or applicable Directors and/or Officers, as applicable	Type of Claim per Proof of Claim or D&O Proof of Claim	Amount of Claim per Proof of Claim or D&O Proof of Claim	Type of Claim Allowed per this Notice of Revision or Disallowance	Amount of Claim Allowed per this Notice of Revision or Disallowance
[Insert: name of appropriate party]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]	CAD \$

Reasons for Revision or Disallowance

SERVICE OF NOTICE OF DISPUTE

If you disagree with the amount of your Claim specified herein for voting and/or distribution purposes, you must deliver a Notice of Dispute of Revision or Disallowance to the Monitor in writing, no later than 5:00 p.m. (Eastern Time) on the day that is not later than **thirty (30) days** after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order. The form Notice of Dispute of Revision or Disallowance is enclosed.

If you do not deliver a Notice of Dispute of Revision or Disallowance, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

Notice of Dispute of Revision or Disallowance forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

KPMG Inc., Court-appointed Monitor of the OTE Group
Claims Process

333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, ON M5H 2S5

Attention: Chris Gard / Broderick Lomax
Telephone: 1-833-665-0666 (toll free within North America)
416-468-7000 (local)
Fax: 416-777-8818
Email: OTEGroup@kpmg.ca

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.

DATED at _____ this _____ day of _____, 2023.

SCHEDULE “G”

**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.**

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

**FOR CLAIMS AGAINST ORIGINAL TRADERS ENERGY LTD., 2496750 ONTARIO INC.,
OTE LOGISTICS LP AND ORIGINAL TRADERS ENERGY LP (collectively, the “OTE Group”)
AND/OR AGAINST THE DIRECTORS AND/OR OFFICERS OF THE OTE GROUP**

1. PARTICULARS OF CREDITOR

(a) Full Legal Name of Creditor:

(b) Full Mailing Address of Creditor:

(c) Telephone Number of Creditor:

(d) Facsimile Number of Creditor:

(e) E-mail Address of Creditor:

(f) Attention (Contact Person):

2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes ☐ No ☐

(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): _____

3. **DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

Pursuant to the Claims Procedure Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Applicants dated April 27, 2023 (the “**Claims Procedure Order**”), we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance in respect of our Claim as set out in the following table:

Name of relevant OTE Group entity and/or applicable Directors and/or Officers, as applicable	Type of Claim in Notice of Revision or Disallowance	Amount of Claim in Notice of Revision or Disallowance	Type of Claim Asserted per this Notice of Dispute or Revision or Disallowance	Amount of Claim Asserted per this Notice of Dispute of Revision or Disallowance

[Insert: name of appropriate party]

[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

[CAD \$]

[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

[CAD \$]

4. **REASONS FOR DISPUTE:**

Dated at _____ this _____ day of _____, 202__.

(signature of Claimant or its authorized representative)

Name:

Title:

Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

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

CLAIMS PROCEDURE ORDER

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Lawyers for the OTE Group

Appendix “E”

**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**”)

THIRD STAY EXTENSION 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, among other things, extending the stay of proceedings, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Amended Notice of Motion and Amended Motion Record of the Applicants (the “**Amended Notice of Motion**” and the “**Amended Motion Record**”), the Fifth Report of KPMG Inc. in its capacity as Court-appointed monitor (the “**Monitor**”) dated September 28, 2023 (the “**Fifth Report**”) and the Supplement to the Fifth Report of the Monitor dated October 6, 2023 (the “**Supplemental Report**”), and on hearing the submissions of counsel for the Applicants, OTE Logistics LP, and Original Traders Energy LP (collectively, the “**OTE Group**”), counsel for the Monitor and such other counsel who were present as stated on the counsel slip, no one else appearing although duly served as appears from the Affidavit of Service of Cristian Delfino, as filed:

SERVICE

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

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 16 of the Amended and Restated Initial Order dated February 9, 2023 and further amended on July 17, 2023) is hereby extended until and including April 26, 2024.

ADDENDUM TO THE CLAIMS PROCEDURE ORDER

3. **THIS COURT ORDERS** that the following claims process for former employees of any entity of the OTE Group who are terminated during the CCAA proceeding (the “**Terminated Employees**”) shall apply in respect of their Claims as employees against the OTE Group (the “**Employee Restructuring Claims**”), and the claims procedure order dated April 27, 2023 (the “**Claims Procedure Order**”) shall be deemed to be amended accordingly in respect of Employee Restructuring Claims. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Claims Procedure Order, and the Claims Procedure Order shall apply in all respects to Employee Restructuring Claims, which shall be regarded as Restructuring Period Claims under the Claims Procedure Order, subject to the modifications set out below:

- (a) The OTE Group will prepare, in consultation with the Monitor, and based on the OTE Group’s books and records, a notice of Employee Restructuring Claim for each Terminated Employee terminated during the CCAA proceeding, setting out any accrued and unpaid vacation pay, termination and/or severance pay, wages, commissions or other remuneration arising as a result of the termination of their respective employment, all calculated based upon statutory entitlements of such Terminated Employee in the Province of Ontario (the “**Notice of Employee Restructuring Claim**”), and for greater certainty, this calculation does not prejudice a Terminated Employee’s right to calculate its Employee Restructuring Claim on another basis pursuant to paragraph 3(c) below;

- (b) The Monitor will deliver a Notice of Employee Restructuring Claim, along with a claims package (the “**Claims Package**”), to each Terminated Employee as soon as reasonably practicable and not later than fifteen business days following the date of this Order in respect of each Terminated Employee who was terminated prior to the date of this Order or within fifteen business days following the date on which such Employee Restructuring Claim arises in respect of any Terminated Employee who is terminated following the date of this Order;
- (c) If a Terminated Employee disputes the classification, nature and/or amount of the Employee Restructuring Claim as set out in their Notice of Employee Restructuring Claim, on any basis, such Terminated Employee must complete a notice of dispute (the “**Notice of Dispute of Employee Restructuring Claim**”) and send it to the Monitor by no later than 5:00 pm (Eastern Standard Time) on the date that is fifteen business days after the date on which the Monitor sent a Claims Package, accompanied by a Notice of Employee Restructuring Claim, to such Terminated Employee having an Employee Restructuring Claim (the “**Employee Claims Bar Date**”).

4. **THIS COURT ORDERS** that any Terminated Employee who does not deliver a Notice of Dispute of Employee Restructuring Claim such that it is received by the Monitor by the Employee Claims Bar Date shall be deemed to accept as final and binding the amount of its Claim as set out in the Notice of Employee Restructuring Claim and will be forever barred, estopped and enjoined from disputing the classification, nature and/or amount of the Employee Restructuring Claim set forth in the Notice of Employee Restructuring Claim, and any other claims that such Terminated Employee may have in respect of, arising from or related to such Terminated Employee’s employment or former employment with any of the OTE Group entities shall be forever barred and extinguished without any further act or notification by the OTE Group or the Monitor.

5. **THIS COURT ORDERS** that the Monitor shall be at liberty to modify and supplement the forms approved under the Claims Procedure Order as the Monitor deems necessary or appropriate in connection with the claims process for Terminated Employees set out herein.

6. **THIS COURT ORDERS** that the Monitor shall be entitled to rely upon the books and records of the OTE Group and shall have no liability in connection with any calculation of or error in respect of any Employee Restructuring Claims and shall have all of the protections afforded to it in the Claims Procedure Order and other Orders of this Court.

APPROVAL OF MONITOR'S REPORTS

7. **THIS COURT ORDERS** that all of the activities and conduct of the Monitor prior to the date hereof in relation to the OTE Group and these CCAA proceedings are hereby ratified and approved.

8. **THIS COURT ORDERS** that the Fifth Report and the Supplemental Report be and are hereby approved.

9. **THIS COURT ORDERS** that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approvals set forth in paragraphs 7 and 8 of this Order.

GENERAL

10. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

11. **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.

12. **THIS COURT ORDERS** that this Order is effective from today's date as of 12:01 a.m. Eastern Standard/Daylight Time and is enforceable without the need for entry or filing.



Digitally signed by
Jessica Kimmel
Date: 2023.10.12
22:31:07 -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

THIRD STAY EXTENSION ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
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Steven Graff (LSO#: 31871V)
Martin Henderson (LSO#: 24986L)
Tamie Dolny (LSO#: 77958U)
Samantha Hans (LSO#: 84737H)

Lawyers for the OTE Group

Appendix “F”

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

THE HONOURABLE	)	THURSDAY THE 12 TH
)	
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

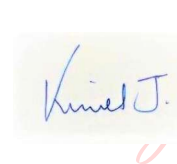
transaction pursuant to the Amended Bid Process (a “**Transaction**”). Each person to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does 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

<p>ONTARIO</p> <p>SUPERIOR COURT OF JUSTICE</p> <p>COMMERCIAL LIST</p> <p>Proceedings commenced at Toronto</p>	
<p>ORDER</p>	
<p>BENNETT JONES LLP 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p>Raj S. Sahni (LSO# 42942U) Tel No: 416-777-4808 Email: sahnir@bennettjones.com</p> <p>Thomas Gray (LSO# 82473H) Tel No: 416-777-7924 Email: grayt@bennettjones.com</p> <p><i>Lawyers for the Monitor</i></p>	

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

Twelfth Report of the Monitor

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Lawyers for the Monitor

Tab 3

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

THE HONOURABLE	)	THURSDAY, THE 30 TH
)	
JUSTICE BLACK	)	DAY OF JANUARY, 2025

**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
(Distribution & Claims Transition Order)**

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**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and these proceedings, the "**CCAA Proceedings**") for an order, among other things, (i) approving certain distributions in these CCAA Proceedings to the Royal Bank of Canada ("**RBC**"); and (ii) providing direction regarding the treatment of proofs of claim already filed against OTE Logistics LP and Original Traders Energy LP in the CCAA Proceedings, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the Twelfth Report of the Monitor dated January 24, 2025 (the "**Twelfth Report**") and on hearing the submissions of counsel for the Monitor, counsel for RBC and those other parties listed on the participant information form, no one else appearing although duly served as it appears from the affidavits of service, filed.

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 Twelfth Report.

DISTRIBUTION

3. **THIS COURT ORDERS** that KPMG Inc., solely in its capacity as the Monitor in these CCAA Proceedings, be and is hereby authorized and directed to make one or more distributions to RBC, up to the amount of the secured obligations owing by the OTE Group to RBC (collectively, the “**Loan Distributions**”).

4. **THIS COURT ORDERS** that KPMG Inc., solely in its capacity as the Monitor in these CCAA Proceedings, be and is hereby authorized and directed to pay to RBC the amount of harmonized sales tax exigible under Part IX of the *Excise Tax Act* (Canada) (“**HST**”) owing by the OTE Group to RBC in respect of certain equipment leases between the OTE Group and RBC in the amount of \$843,348.71, on account of HST and approximately \$33,733.95 on account of penalties and interest thereon (collectively, the “**HST Remittance**”, and with the Loan Distributions, the “**Distributions**”), as set out in the Twelfth Report.

5. **THIS COURT ORDERS** that, after its receipt of the HST Remittance from the Monitor, RBC shall remit the HST Remittance to the Canada Revenue Agency with the HST return covering the reporting period in which the Monitor pays to RBC the HST Remittance, within the filing deadline that such HST return is required to be filed; and RBC shall provide proof of such remittance to the Monitor after the Canada Revenue Agency has assessed the HST return.

6. **THIS COURT ORDERS** that upon the Monitor making payment of the HST Remittance to RBC, any and all liability that the OTE Group or the Monitor may have in connection with the HST Remittance to the Canada Revenue Agency shall be discharged and released, subject to paragraph 7 below.

7. **THIS COURT ORDERS** that upon RBC making payment of the HST Remittance to the Canada Revenue Agency, any and all liability that RBC may have in connection with credit facilities extended by RBC to the OTE Group and the HST Remittance, be and is hereby discharged and released, provided however that nothing herein shall affect or prejudice any rights of the Canada Revenue Agency to assess or audit the HST Remittance, and in the event the Canada Revenue Agency determines that a greater amount of HST and/or penalties and interest is required to be paid, the OTE Group shall forthwith remit such amount to RBC for remittance to the Canada Revenue Agency.

8. **THIS COURT ORDERS** that the Distributions shall be free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any Order in these CCAA proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada.

9. **THIS COURT ORDERS** that the Distributions shall not constitute a “distribution” by any director, officer, employee or agent of the OTE Group or the Monitor, including their respective legal counsel, and such persons shall not constitute a “legal representative”, “representative” or a “responsible representative” of the OTE Group or the Monitor or “other person” for purposes of Section 159, 227.1 and 227(5) of the *Income Tax Act* (Canada), Section 117 of the *Taxation Act*, 2007 (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada), Section 22 of the *Retail Sales Tax Act* (Ontario), Section 107 of the *Corporations Tax Act* (Ontario), or any federal, provincial, state or territorial tax legislation (collectively, the “**Statutes**”), and such persons, including the Monitor, in causing or assisting the OTE Group to make any distribution in accordance with this Order is not “distributing”, nor shall it be considered to have “distributed”, such funds for the purposes of the Statutes, and such persons shall not incur any liability under the Statutes for causing or assisting the OTE Group in making any Distributions in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and such persons shall not have any liability

for any of the OTE Group's tax liabilities regardless of how or when such liabilities may have arisen, and are hereby forever released, remised and discharged from any claims against such person under or pursuant to the Statutes or otherwise at law arising as a result of the distributions contemplated in this Order, and any claims of such nature are hereby forever barred.

10. **THIS COURT ORDERS** that the Monitor is hereby authorized, directed and empowered to take any further steps that it deems necessary or desirable to complete the distributions described in this Order.

11. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) the pendency of any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the "**BIA**"), in respect of the OTE Group or its property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the OTE Group; and
- (d) the provision of any federal, provincial or other statute;

any Distributions made pursuant to this Order are final and irreversible and shall be binding upon any trustee in bankruptcy or receiver that may be appointed in respect of the OTE Group or its property, and shall not be void or voidable by creditors of the OTE Group, nor shall any such distributions constitute or be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers-at-undervalue or other reviewable transactions under the BIA or any other applicable federal, provincial or other law, nor shall they constitute conduct which is oppressive, unfairly prejudicial to or which unfairly disregards the interests of any person, and shall, upon the receipt thereof, be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to the OTE Group or its property.

PROOFS OF CLAIM

12. **THIS COURT ORDERS** that, unless otherwise revised and submitted to the OTE Bankruptcy Trustee in accordance with the BIA before the first meeting of creditors for the OTE

Bankrupt Entities, proofs of claim filed in these CCAA Proceedings in accordance with the Claims Procedure against the OTE Bankrupt Entities (the “**Bankrupt Entity Proofs of Claim**”) shall be treated as having been filed in the Bankruptcy Proceedings against the OTE Bankrupt Entities for the purposes of tabulating votes at the first meetings of creditors for the OTE Bankrupt Entities, and shall not need to be re-filed with the OTE Bankruptcy Trustee for voting purposes.

13. **THIS COURT ORDERS** that, to the extent the quantum and validity of the claims filed in the CCAA Proceedings are finally determined in the CCAA Proceedings, the Claims Procedure and the Enhanced Powers Order shall continue to apply, and to the extent the quantum and validity of the claims filed in the Bankruptcy Proceedings (including the Bankrupt Entity Proofs of Claim) are finally determined in the Bankruptcy Proceedings, the relevant provisions of the BIA shall apply.

14. **THIS COURT ORDERS** that nothing herein shall require the Bankrupt Entity Proofs of Claim to be accepted for distribution purposes in the CCAA Proceedings or the Bankruptcy Proceedings or prejudice the right of the Monitor or the OTE Bankruptcy Trustee (as applicable) to revise or disallow any claims filed in the CCAA Proceedings or the Bankruptcy Proceedings.

GENERAL

15. **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.

16. **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.

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 in Toronto

**ORDER
(Distribution & Claims Transition Order)**

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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
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ONTARIO
SUPERIOR COURT OF JUSTICE
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MOTION RECORD
(Returnable January 30, 2025)

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