

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

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C c.38**

**DELOITTE RESTRUCTURING INC.**

Applicant

**MOTION RECORD**

January 17, 2025

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TO: **THE SERVICE LIST**

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## SERVICE LIST

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**TAB 1**

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

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

Applicant

**NOTICE OF MOTION  
(Distribution Order)  
(Returnable January 27, 2025)**

The Applicant, Deloitte Restructuring Inc. (“**Deloitte**”), in its capacity as Court-appointed liquidator of Ontario Electronic Stewardship (“**OES**”) (in such capacity, the “**Liquidator**”) will make a motion before the Honourable Justice Dietrich of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Monday, January 27, 2025 at 12:00 pm, or as soon after that time as the motion can be heard.

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

- ☐ In writing under subrule 37.12.1 (1) because it is (*insert one of on consent, unopposed or made without notice*);
- ☐ In writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

At the following location:

**Zoom videoconference link:**

<https://ca01web.zoom.us/j/65400327305?pwd=WC91RjNENjNnZlQ2NHpvdDlzaUNldz09%20%27>

**Meeting ID:** 654 0032 7305 **Passcode:** 082269

**THE MOTION IS FOR:**

1. An order (the “**Distribution Order**”) substantially in the form of the draft order attached at Tab 3 of the Liquidator’s Motion Record filed in these proceedings (the “**Winding-Up Proceedings**”) dated January 17, 2025 (the “**Motion Record**”), among other things:
  - (a) Approving the second report of the Liquidator dated January 17, 2025 (the “**Second Report**”) and the activities described therein;
  - (b) Authorizing the distribution of the Surplus Funds (as defined below) to RPRA (as defined below) (the “**Interim Distribution**”), minus a holdback of \$1,000,000 for estimated future professional fees of the Liquidator, the Liquidator’s counsel and auditors, income tax liability resulting from interest earned on the portion of the Surplus Funds held in term deposits (if any), and any unanticipated costs that may be incurred by the Liquidator in completing the Winding-Up Proceedings (the “**Holdback**”);
  - (c) Authorizing the distribution by the Liquidator of any unused portion of the Holdback to RPRA in accordance with the Plan (as defined below) and upon completion of all matters ancillary to the Winding-Up Proceedings (the “**Final Distribution**”); and
  - (d) such further and other relief as counsel may advise and as this Court deems just.

**THE GROUNDS FOR THIS MOTION ARE**

***Background***

1. On February 8, 2018, the Minister of the Environment and Climate Change (now the Minister of the Environment, Conservation and Parks (the “**Minister**”)) directed OES to

develop a plan to wind-up the Waste Electrical and Electronic Equipment Program (the “**Program**”) pursuant to the *Waste Diversion Transition Act, 2016*, SO 2016, c 12, Sched 2 (the “**Transition Act**”). OES submitted its wind-up plan (the “**Plan**”) to the Resource Productivity and Recovery Authority (“**RPR**A”) on July 25, 2019. The Plan was conditionally approved by RPR A on August 20, 2019.

2. The Transition Act is the main statute governing OES’ operations and wind up.
3. The Transition Act provides that the wind-up plan developed by OES be prepared in accordance with the provisions of the *Corporations Act*, RSO 1990, C C38 (the “*Corporations Act*”) that are prescribed to apply to it. O Reg 357/17: Industry Funding Organizations – Rules that Apply on Winding Up (the “**Transition Act Regulations**”), enacted pursuant to the Transition Act, modify the winding-up provisions of the *Corporations Act* (as modified, the “**Modified Corporations Act**”) to specifically address the winding-up of industry funding organizations, including OES.
4. As contemplated by the Plan, the OES Board of Directors (the “**Board**”) passed a resolution on February 24, 2021 requiring OES to be wound up voluntarily under the provisions of the Transition Act and the Modified Corporations Act. The Board appointed Deloitte as liquidator effective April 1, 2021.
5. On June 11, 2021, on application to the Court made by Deloitte, in its capacity as privately-appointed liquidator of OES, Mr. Justice Dunphy issued:
  - (a) an Order (the “**Appointment Order**”) appointing Deloitte as Liquidator, without security, of all of the assets, undertakings and properties of OES including all proceeds thereof or any sum or balance due from any contributory to which OES

is entitled (the “**Property**”) for the purpose of winding-up the business and affairs of OES and distributing the Property; and

- (b) an Order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of OES (the “**Claims Procedure**”).

- 6. Pursuant to the Appointment Order, the winding-up of OES’ business and affairs, and the distribution of the Property once all proven claims are satisfied, is to be completed in accordance with the terms of the Plan, pursuant to directions received from the Minister and as approved by RPRA, or as otherwise ordered by the Court.

### ***Relief Sought***

### ***Approval of Activities***

- 7. The Liquidator’s activities since the granting of the Bar Date Order are more fully described in the Second Report.
- 8. The actions, conduct and activities undertaken by the Liquidator and described in the Second Report have been conducted in good faith and in accordance with terms of the Plan and the Appointment Order.

### ***Approval of Interim Distribution***

- 9. The Plan requires that any residual funds remaining after the resolution of OES’ financial obligations and the completion of the wind-up activities (the “**Surplus Funds**”) be transferred to RPRA. At the date hereof, the Liquidator holds Surplus Funds totalling approximately \$18.2 million.



10. The Liquidator has completed the Claims Procedure contemplated by the Claims Procedure Order. All Proven Claims (as defined in the Claims Procedure Order) were paid in full and, except for financial obligations to be satisfied by the Holdback, the Liquidator is not aware of any remaining financial obligations of OES.
11. As such, the Liquidator believes that it is appropriate and warranted at this time to make the Interim Distribution.
12. The Liquidator requires the Holdback for the payment of estimated future professional fees of the Liquidator, the Liquidator's counsel and auditors, income tax liability resulting from interest earned on the portion of the Surplus Funds held in term deposits (if any), and any unanticipated costs that may be incurred by the Liquidator in completing the Winding-Up Proceedings.
13. The Liquidator is also seeking approval to distribute to RPRA, in accordance with the Plan, the Final Distribution representing any unused portion of the Holdback to RPRA, upon completion of all matters ancillary to the Winding-Up Proceedings.

***Other Grounds***

14. The provisions of the Transition Act and the regulations thereunder, including Ontario Regulation 357/17: Industry Funding Organizations — Rules That Apply on Winding Up;
15. Part VI of the *Corporations Act*;
16. Rules 1.04, 1.05, 2.03, 16, and 37 of the Ontario *Rules of Civil Procedure*, R.R.O.1990, Reg. 194, as amended; and

17. Such further and other grounds as counsel for the Applicant may advise and this Court may permit.

## **DOCUMENTARY EVIDENCE**

18. The following documentary evidence will be used at the hearing of the motion:

- (a) The Second Report of the Liquidator dated January 17, 2025, including the appendices thereto; and
- (b) Such further and other materials as counsel for the Liquidator may advise and as this Court may permit.

Date: January 17, 2025

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*Lawyers for the Applicant*

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Court File No.: CV-21-00663305-00CL

Applicant

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

(PROCEEDING COMMENCED AT TORONTO)

**NOTICE OF MOTION  
(Returnable January 27, 2025)**

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**TAB 2**

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

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

Applicant

**SECOND REPORT TO THE COURT SUBMITTED BY DELOITTE RESTRUCTURING INC.  
IN ITS CAPACITY AS COURT APPOINTED LIQUIDATOR OF ONTARIO ELECTRONIC  
STEWARDSHIP**

**(January 17, 2025)**

## **LIST OF APPENDICES**

<b>Appendix 1</b>	Appointment Order dated June 11, 2021
<b>Appendix 2</b>	Claims Procedure Order dated June 11, 2021
<b>Appendix 3</b>	Bar Date Order dated October 8, 2021
<b>Appendix 4</b>	First Report of the Liquidator dated September 23, 2021
<b>Appendix 5</b>	Copy of the Data Management Plan
<b>Appendix 6</b>	Copy of the Data Retention and Destruction Plan
<b>Appendix 7</b>	Statement of Receipts and Disbursements

## INTRODUCTION AND BACKGROUND

1. This report is submitted by Deloitte Restructuring Inc. (“**Deloitte**”) in its capacity as Liquidator (as defined herein) of the assets of Ontario Electronic Stewardship (“**OES**”).
2. On February 8, 2018, the Minister of the Environment and Climate Change (now known as the Minister of Environment, Conservation and Parks, the “**Minister**”) directed OES to develop a plan to wind-up the Waste Electrical and Electronic Equipment Program (the “**Program**”) pursuant to the *Waste Diversion Transition Act, 2016* (the “**Transition Act**”). OES submitted its wind-up plan (the “**Plan**”) to the Resource Productivity and Recovery Authority (“**RPRA**”) on July 25, 2019. The Plan was conditionally approved by RPRA on August 20, 2019.
3. The Transition Act is the main statute governing OES’ operations and wind-up. The Transition Act serves as a transition between the Program and the new program for managing waste electronics established pursuant to the *Resource Recovery and Circular Economy Act, 2016*, SO 2016, c 12, Sched 1 (the “**RRCEA**”).
4. The Transition Act provides that the wind-up plan developed by OES be prepared in accordance with the provisions of the *Corporations Act*, RSO 1990, C C38 (the “**Corporations Act**”) that are prescribed to apply to it. O Reg 357/17: Industry Funding Organizations – Rules that Apply on Winding Up (the “**Transition Act Regulations**”), enacted pursuant to the Transition Act, modify the winding-up provisions of the Corporations Act (as modified, the “**Modified Corporations Act**”) to specifically address the winding-up of industry funding organizations, including OES.
5. As contemplated by the Plan, the OES Board of Directors (the “**Board**”) passed a resolution on February 24, 2021 requiring OES to be wound-up voluntarily under the provisions of the Transition Act, and the Modified Corporations Act. The Board appointed Deloitte as liquidator effective April 1, 2021.
6. On June 11, 2021, on application made by Deloitte, in its capacity as privately appointed liquidator of OES to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), Mr. Justice Dunphy issued:
  - (a) an Order (the “**Appointment Order**”) appointing Deloitte as Court-appointed liquidator (the “**Liquidator**”), without security, of all the assets, undertakings and properties of OES including all proceeds thereof or any sum or balance due from any contributory to

which OES is entitled (the “**Property**”) for the purpose of winding-up the business and affairs of OES and distributing the Property; and

- (b) an Order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of OES (the “**Claims Procedure**”).

A copy of the Appointment Order and the Claims Procedure Order, as granted, are attached as **Appendix “1”** and **Appendix “2”**, respectively. The winding-up of OES is hereafter referred to as the “**Winding-Up Proceedings**”.

- 7. Pursuant to the Appointment Order, the winding-up of OES’ business and affairs, and the distribution of the Property once all proven claims are satisfied, is to be completed in accordance with the terms of the Plan, pursuant to directions received from the Minister, and as approved by RPRA, or as otherwise ordered by the Court.
- 8. The Plan provides, among other things, that any residual funds remaining after the resolution of OES’ financial obligations and the completion of the wind-up activities (the “**Surplus Funds**”) be transferred to RPRA to offset registry-related expenses incurred pursuant to the RRCEA. At the date of this second report of the Liquidator (the “**Second Report**”), the Liquidator holds Surplus Funds totalling approximately \$18.2 million.
- 9. In accordance with the provisions of the Claims Procedure Order, on October 8, 2021 the Liquidator brought a motion to the Court for, and was granted, an order (the “**Bar Date Order**”) fixing a claims bar date of October 21, 2021 (the “**Bar Date**”) with respect to the Claims Procedure. A copy of the Bar Date Order as granted is attached as **Appendix “3”**.
- 10. In connection with the Liquidator’s motion for the Bar Date Order, the Liquidator submitted its First Report to the Court dated September 23, 2021 (the “**First Report**”). A copy of the First Report is attached as **Appendix “4”**.

## **PURPOSE OF THE SECOND REPORT**

- 11. This Second Report is filed:
  - (a) to provide the Court with information regarding the Liquidator’s activities since the date of the First Report; and



(b) in support of the Liquidator's request for an order (the "**Distribution Order**"), among other things:

- i) approving this Second Report, including the actions and activities of the Liquidator since the First Report as described in this Second Report;
- ii) authorizing the distribution of the Surplus Funds to RPRA (the "**Interim Distribution**"), minus a holdback of \$1,000,000 for estimated future professional fees of the Liquidator, the Liquidator's counsel and auditors, income tax liability resulting from interest earned on the portion of the Surplus Funds held in term deposits (if any), and any unanticipated costs that may be incurred by the Liquidator in completing the Winding-Up Proceedings (the "**Holdback**"); and
- iii) authorizing the distribution by the Liquidator of any unused portion of the Holdback to RPRA in accordance with the Plan upon completion of all matters ancillary to the Winding-Up Proceedings (the "**Final Distribution**").

#### **TERMS OF REFERENCE AND DISCLAIMER**

- 12. In preparing this Second Report, the Liquidator has relied upon certain audited and unaudited financial information, and other information contained in the books and records of OES (collectively, the "**Information**"). Except as otherwise described in this Second Report, the Liquidator has not audited, reviewed or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would comply with Canadian Generally Accepted Assurance Standards.
- 13. This Second Report has been prepared for the use of the Court to provide general information and an update regarding the Winding-Up Proceedings for the purpose of assisting the Court in making a determination as to whether to approve the relief sought. This Second Report should not be relied on for any other purpose. The Liquidator does not assume responsibility or liability for losses incurred as a result of the circulation, publication, reproduction or use of this Second Report contrary to the provisions of this paragraph.
- 14. Capitalized terms not defined in this Second Report are as defined in the Appointment Order.

15. Copies of materials filed in the Winding-Up Proceedings to date are available on the Liquidator's Website at: [Ontario Electronic Stewardship \(deloitte.ca\)](https://deloitte.ca/ontario-electronic-stewardship).

## **ACTIVITIES SINCE THE GRANTING OF THE BAR DATE ORDER**

### **Claims Procedure**

16. As more fully described in the First Report, the Liquidator completed the Claims Procedure as approved by the Court pursuant to the Claims Procedure Order. Defined terms used in the following paragraphs 17 - 20 of this Second Report and not otherwise defined herein have the meanings ascribed to them in the Claims Procedure Order.
17. Following the issuance of the Bar Date Order, and as of the Bar Date of October 21, 2021, the Liquidator admitted Claims in the aggregate amount of \$149,841.
18. As of the Bar Date of October 21, 2021, the Liquidator revised or denied Claims in the aggregate amount of \$89,777. In accordance with the provisions of the Claims Procedure Order, the Liquidator advised such Claimants in writing that the Liquidator had revised or rejected all or part of such Claimant's Claim as set out in its applicable Proof of Claim by delivering a Notice of Revision or Disallowance to each such Claimant.
19. One Claimant that received a Notice of Revision or Disallowance in connection with its Claim contacted the Liquidator following receipt of such notice, disputing the quantum of its revised Claim as determined by the Liquidator (the "**Disputed Claim**"). The Disputed Claim was subsequently settled by the Liquidator, with the approval of RPRA.
20. In carrying out the Claims Procedure, the Liquidator issued payments aggregating \$186,720 representing 100% of the face amount of all Proven Claims.

### **Activities in Relation to the Claim Against the CRA for an HST Refund (the "HST Claim")**

21. In reviewing the books and records of OES, the Liquidator identified a potential issue with respect to the remittance of HST notionally collected on environmental handling fees ("**EHF**") from stewards (being the entities that brought electronics or manufactured electronics for sale in the province of Ontario, and participated in the Program) (collectively, the "**Stewards**") between February 2019 and December 2020.

22. In April 2018, the Tax Court of Canada ruled that input tax credits (“ITCs”) previously claimed by OES on its GST/HST returns were valid, resulting in an HST refund of approximately \$60 million that was received in February 2019. Given the HST refund, the EHF was reduced to zero by Ministerial direction on February 1, 2019.
23. Notwithstanding the reduction of the EHF, and acting on legal advice, OES continued to issue invoices to Stewards after February 1, 2019, reflecting a notional EHF charge and associated GST/HST. The invoices showed the notional charge reduced to zero, reflecting settlement of the EHF from the operating surplus. OES remitted the notional HST to Canada Revenue Agency (“CRA”), even though it did not actually collect any HST from Stewards.
24. The Liquidator filed GST/HST returns with CRA on February 18, 2022, seeking a refund of approximately \$3.5 million to resolve the over-remittance. On July 20, 2022, CRA wrote to the Liquidator raising a number of questions with respect to the GST/HST returns filed by the Liquidator on behalf of OES. In addition to responding to CRA’s questions, the Liquidator requested an amendment to the originally filed returns to increase the refund claim to approximately \$14.3 million.
25. In December 2023, CRA concluded that OES was entitled to the ITCs and issued a notice of assessment approving \$14.3 million in ITCs and adjustments and \$0.9 million in interest on the refund. The Liquidator, on behalf of OES, received the resulting HST refund, totalling \$15.2 million, in January 2024. A second return, reflecting adjustments to the review period, resulted in a further additional refund of approximately \$632,000, which was received by the Liquidator in June 2024.

### **Data Management Plan**

26. As required by the Plan, the Liquidator prepared a data management plan (the “**Data Management Plan**”) to:
  - (a) ensure the security of OES’ data (the “**OES Data**”);
  - (b) ensure the OES Data was used solely by OES and the Liquidator for the purpose of implementing the Plan;
  - (c) manage the transfer of OES Data to RPRA;

- (d) document steps to be taken by the Liquidator to retain necessary OES Data in compliance with applicable legislation; and
  - (e) ensure the secure destruction of OES Data not required for retention.
- 27. RPRA approved the Data Management Plan on September 27, 2021.
- 28. The Liquidator has worked closely with RPRA and the Electronic Product Recycling Association (OES' former administrative services provider) (the "**EPRA**") to identify, categorize and secure the OES Data. These efforts included:
  - (a) reviewing records maintained by EPRA and conducting interviews with management and technical staff;
  - (b) identifying and securing physical records maintained at OES' offices and at off-site storage locations;
  - (c) cataloguing and digitizing all physical records;
  - (d) uploading all OES Data to a secure document library and facilitating RPRA's review of the OES Data to identify which data would be transferred;
  - (e) reviewing applicable legislation to determine retention requirements; and
  - (f) transferring OES Data to RPRA pursuant to paragraph 17 of the Appointment Order and the requirements of the Plan.
- 29. In addition to the foregoing, the Liquidator prepared a supplementary plan for the retention and destruction of OES Data (the "**Data Retention and Destruction Plan**"). Copies of the Data Management Plan and the Data Retention and Destruction Plan are attached hereto as **Appendix "5"** and **Appendix "6"**, respectively.
- 30. The terms of both the Data Management Plan and the Data Retention and Destruction Plan, as prepared in consultation with and approved by RPRA, are consistent with the provisions of both the Transition Act and the Modified Corporations Act. In this regard, the Transition Act specifically requires that the Plan include a proposal for transferring or sharing data that is within OES' custody or control and that relates to waste that will no longer be included in the Program,

and the Modified Corporations Act requires that, where OES has been wound-up and is about to be dissolved, its books, accounts and documents and those of the Liquidator be given to RPRA.

31. The Liquidator will complete its remaining obligations under the Data Retention and Destruction Plan following the issuance of the Distribution Order.

#### **Other Activities**

32. In addition to the foregoing, the Liquidator has, since the First Report:
  - (a) prepared and filed GST/HST returns on behalf of OES;
  - (b) maintained and reconciled the Liquidator's trust account, including the settlement of obligations incurred after the issuance of the Appointment Order;
  - (c) corresponded with creditors, RPRA, EPRA and other stakeholders about the liquidation process and the status of the Winding-Up Proceedings;
  - (d) assisted RPRA in the conduct by RPRA of a consultation with stakeholders with respect to the proposed use of Surplus Funds, if and when distributed to RPRA, and responded to information requests from Stewards following such consultation;
  - (e) held a joint information session with RPRA to update the Stewards, among others, on the HST Claim and prepared a presentation to be delivered to the Stewards at the joint information session;
  - (f) made arrangements to transfer OES Data to RPRA in accordance with the Data Management Plan, and, in accordance with the Data Retention and Destruction Plan, initiated the destruction and retention of remaining OES Data;
  - (g) arranged for the preparation of audited financial statements and annual reports for the years ending December 31, 2021 through December 31, 2024; and
  - (h) prepared a draft Final Implementation Report (as defined and described below) to be finalized and submitted to RPRA and the Minister in accordance with the requirements of the Transition Act following the issuance of the Distribution Order, if granted, and the completion of the Ancillary Matters (as defined and described below).

## STATEMENT OF RECEIPTS AND DISBURSEMENTS OF THE LIQUIDATOR

33. Attached hereto as **Appendix “7”** is the Liquidator’s statement of receipts and disbursements (the “SRD”) for the period April 1, 2021 to July 31, 2024 which indicates a balance of \$18,232,265 in the Liquidator’s trust account, representing the Surplus Funds.
34. The Surplus Funds are held by the Liquidator in its trust account (approximately \$432,265) and in term deposits (approximately \$17.8 million). A final SRD will be provided to RPRA prior to the distribution of the Final Distribution representing residual funds remaining after payment of the amounts contemplated to be paid out of the Holdback. The Liquidator anticipates that the only changes to the SRD from July 31, 2024 to the ultimate distribution date will be interest earnings and discharging the costs and professional fees contemplated by the Holdback. The Liquidator estimates that the final total distribution to RPRA will be in the range of \$17.0 to \$18.0 million.

## DISTRIBUTION

35. The Liquidator has completed the Claims Procedure, and the Bar Date has passed. All Claims that were disallowed or disputed by the Liquidator have been either settled, as described above, or otherwise not been challenged or contested. The Proven Claims were paid in full.
36. The HST Claim is now resolved and the Liquidator has received the proceeds from such HST Claim.
37. OES does not have any employees and there are no employee-related claims outstanding to be paid by the Liquidator.
38. In accordance with the terms of the Plan, all Surplus Funds are to be transferred to RPRA. It is the view of the Liquidator that it is now appropriate to distribute the Interim Distribution to RPRA.
39. The Liquidator anticipates that the quantum of the proposed Holdback will be applied to amounts owing with respect to future professional fees of the Liquidator, the Liquidator’s counsel and auditors, an income tax liability resulting from interest earned on the portion of the Surplus Funds held in term deposits, if any, and any unanticipated costs that may be incurred by the Liquidator in completing the Winding-Up Proceedings. The Liquidator has consulted with RPRA with respect to the proposed Holdback and RPRA has no objection to the quantum of the Holdback.

40. The Liquidator is accordingly seeking authorization to make the Final Distribution to RPRA of any unused portion of the Holdback in accordance with the Plan following a final determination of the amounts required to be paid out of the Holdback. The Liquidator notes that the quantum of the Final Distribution will be immaterial compared to the Interim Distribution.

#### **NEXT STEPS IN THE WINDING-UP PROCEEDINGS**

41. Pursuant to the Plan and the Transition Act, certain preliminary matters must be completed before the Liquidator can complete its mandate as set out in the Appointment Order, ultimately terminate these Winding-Up Proceedings and dissolve OES as a corporate entity.
42. These steps include, among other things, the requirement under the Transition Act that the Liquidator prepare a final report to RPRA setting out the steps that were taken to implement the Plan, and confirming that the Plan has been implemented (the “**Final Implementation Report**”). As of the date hereof, the Liquidator has prepared and circulated a draft Final Implementation Report to RPRA, however, in order to finalize this report and confirm that the Plan has been implemented, the Plan requires that all Surplus Funds remaining in OES after the winding-up activities are complete be transferred to RPRA. This transfer of Surplus Funds to RPRA is consistent with the provisions of the Transition Act and the Modified Corporations Act.
43. The Liquidator is accordingly seeking the granting of the Distribution Order at this time as a requisite step to completing the Final Implementation Report and, ultimately, these Winding-Up Proceedings. The Distribution Order is necessary to authorize the Liquidator to make the Interim Distribution and the Final Distribution of Surplus Funds to RPRA once all Ancillary Matters (as defined below) to the Winding-Up Proceedings are complete.
44. In addition, the Liquidator must complete the following remaining matters in accordance with the Plan and the Transition Act:
- (a) complete its remaining obligations under the Data Management Plan and Data Retention and Destruction Plan;
  - (b) arrange for the submission of final tax returns and obtaining a clearance certificate from the CRA;
  - (c) arrange for the preparation and issuance of final audited financial statements of OES;

(d) distribute amounts from the Holdback to the Liquidator, its counsel and OES' auditors for payment of professional fees and disbursements in accordance with the terms of the Distribution Order, if granted by the Court; and

(e) distribute amounts from the Holdback to pay any income tax liability resulting from interest earned on the Surplus Funds held in term deposits, and any unanticipated costs to be incurred by the Liquidator in completing the Winding-Up Proceedings, in accordance with the terms of the Distribution Order, if granted by the Court,

(collectively, the “**Ancillary Matters**”).

45. Once all Ancillary Matters are complete, the Liquidator will have completed all steps required to implement the Plan in accordance with the requirements of the Transition Act, with the exception of making the Final Distribution, the quantum of which the Liquidator notes will be immaterial compared to the Interim Distribution.

46. Following the completion of the Ancillary Matters, the Liquidator will submit the Final Implementation Report to RPRA for review. Following review, RPRA will recommend to the Minister that OES has completed all of the steps of the Plan and that the Program is able to be formally terminated.

47. Upon receipt of the Final Implementation Report and letter from the RPRA board of directors recommending that the Program be formally terminated, the Minister shall, in accordance with the provisions of the Transition Act, issue a notice (the “**Termination Notice**”) terminating the Program as of the date set out in the Termination Notice.

48. Following the issuance of the Termination Notice by the Minister, the Winding-Up Proceedings will have run their course, and the Liquidator intends to bring a final motion to the Court for an Order (the “**Termination, Discharge and Dissolution Order**”), among other things:

(a) approving the third report of the Liquidator, to be filed, and the activities of the Liquidator since this Second Report;

(b) approving the fees and disbursements of the Liquidator and its counsel;

(c) terminating the Winding-Up Proceedings;



- (d) ordering the dissolution of OES as a corporate entity in accordance with the provisions of the Modified Corporations Act upon the issuance of the Termination, Discharge and Dissolution Order, if so granted; and
- (e) approving the discharge of Deloitte as Liquidator of OES and releasing it and its counsel from all claims in connection with the Winding-Up Proceedings.

#### **LIQUIDATOR'S RECOMMENDATION**

49. The Liquidator recommends and respectfully requests that this Court grant the Distribution Order, including:
- i) approving this Second Report and the activities and conduct of the Liquidator as described herein;
  - ii) authorizing the payment of the Interim Distribution to RPRA in accordance with the Plan; and
  - iii) authorizing the payment of the Final Distribution representing any unused portion of the Holdback to RPRA in accordance with the Plan following the completion by the Liquidator of all Ancillary Matters required to complete the Winding-Up Proceedings.

All of which is respectfully submitted this 17<sup>th</sup> day of January, 2025.

**DELOITTE RESTRUCTURING INC.**, in its  
capacity as Court-appointed Liquidator of  
Ontario Electronic Stewardship



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Jorden Sleeth  
Senior Vice President

# **APPENDIX 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.

)

FRIDAY, THE 11<sup>TH</sup>

JUSTICE DUNPHY

)

DAY OF JUNE, 2021

)

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**ORDER  
(Wind Up and Appointment of a Liquidator)**

**THIS APPLICATION** made by the Applicant for an Order pursuant to sections 243(b), (d) and 246 of the *Corporations Act*, R.S.O. 1990, c. C. 38, as modified by Ontario Regulation 357/17 (the “*Corporations Act*”) appointing Deloitte Restructuring Inc. as Court-appointed liquidator (in such capacity, the “**Liquidator**”) without security, of all of the assets, undertakings and properties of Ontario Electronic Stewardship (“**OES**” or the “**Corporation**”) was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Richard Williams sworn May 31, 2021 (the “**Williams Affidavit**”) and the Exhibits thereto and the consent of Deloitte Restructuring Inc. to act as the Liquidator, and on hearing the submissions of counsel for the Applicant, counsel for Resource Productivity & Recovery Authority, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Katherine Yurkovich sworn June 2, 2021 and on reading the consent of Deloitte Restructuring Inc. to act as the Liquidator,

## WINDING UP AND APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to section 243 of the *Corporations Act*, the Corporation be wound up in accordance with the terms of this Order.

2. **THIS COURT ORDERS** that pursuant to sections 243 and 246 of the *Corporations Act*, Deloitte Restructuring Inc. is hereby appointed Liquidator, without security, of all of the assets, undertakings and properties of the Corporation including all proceeds thereof or any sum or balance due from any contributory to which the Corporation is entitled (the “**Property**”) for the purpose of winding up the Corporation’s business and affairs and distributing its Property. The winding up shall be completed in accordance with the terms of the Corporation’s plan to wind up the Corporation attached as Exhibit F to the Williams Affidavit (the “**Wind Up Plan**”), or pursuant to directions received from the Minister of the Environment, Conservation and Parks, and as approved by the Resource Productivity and Recovery Authority (“**RPRA**”), or as otherwise ordered by the Court.

## LIQUIDATOR’S POWERS

3. **THIS COURT ORDERS** that the Liquidator, in exercising its powers and performing its functions, including, without limitation, all such powers under the *Corporations Act*, shall act as the agent of the Corporation and shall be empowered to exercise all powers and authorities in lieu, and in stead, of the officers and directors of the Corporation, including the Corporation’s power and authority to make or amend rules pursuant to the *Waste Diversion Transition Act*, 2016, S.O. 2016, c.12, Sched 2 (the “**WDTA**”), and in exercising and performing any such powers pursuant to this order, or any further order of this Court made in this proceeding, only the Corporation shall be liable for any act performed or thing done by the Liquidator pursuant to the powers conferred upon it by this order or any other order of this Court made in this proceeding and the Liquidator shall have no personal liability therefore.

4. **THIS COURT ORDERS** that the Liquidator shall review all of the Property and shall make inquiries as to any security, rights, claims or other interests asserted in, to or against any of the Property.

5. **THIS COURT ORDERS** that Liquidator may, in the course of its determination as to the assets, liabilities and claims against the Property, apply to this Court for directions as to any process or processes for the determination of the claims and entitlements of all persons who may have rights as creditors, claimants to interests in the Property, or against the Corporation or any of its Property and, subject to such claims process, may request any other directions concerning any further steps to realize upon the Property and to complete the liquidation of the Corporation.

6. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage 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 Liquidator's powers and duties, including without limitation those conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Corporation and to exercise all remedies of the Corporation in collecting such monies, including, without limitation, to enforce any security held by the Corporation;

- (e) to settle, extend or compromise any indebtedness owing to the Corporation;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the name and on behalf of the Corporation, for any purpose pursuant to this Order;
- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Corporation, the Property or the Liquidator, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required.

- (j) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property and the wind up, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (m) to apply 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, if thought desirable by the Liquidator, in the name of the Corporation;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Corporation may have;
- (o) to apply the Property of the Corporation in satisfaction of all its debts, obligations and liabilities;
- (p) to facilitate the transfer to RPRA of all commercial data and information in the possession of the Corporation in accordance with the terms of the Corporation's Wind Up Plan; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Liquidator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Corporation, and without interference from any other Person. For avoidance of doubt, nothing in this Order will detract from, or diminish, the obligation of the Liquidator, in the

name of the Corporation, to continue to pay any and all amounts that the Corporation is required to pay under the *WDTA*.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR**

7. **THIS COURT ORDERS** that the Corporation, all of its current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Liquidator of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator’s request.

8. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

9. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying



the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE LIQUIDATOR**

10. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE CORPORATION OR THE PROPERTY**

11. **THIS COURT ORDERS** that, no Proceeding against or in respect of the Corporation or the Property shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Corporation or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

12. **THIS COURT ORDERS** that all rights and remedies against the Corporation, the Liquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, and further provided that nothing in this paragraph shall (i) empower the Liquidator or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on, (ii) exempt the Liquidator or the Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE LIQUIDATOR**

13. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Corporation, without written consent of the Liquidator or leave of this Court.

### **CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Corporation or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Corporation are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Corporation's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Corporation or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

### **LIQUIDATOR TO HOLD FUNDS**

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property, the pursuit of any claim of OES, and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Liquidator (the "**Liquidation Accounts**") and the monies standing to the credit of such Liquidation Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

## **PIPEDA**

16. **THIS COURT ORDERS** that, to facilitate the transfer of personal information held by the Corporation to RPRA as required under sub-section 14(12) of the *WDTA*, pursuant to clauses 7(3)(c) and 7(3)(i) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to RPRA and its advisors, but only to the extent desirable or required to carry out the Corporation's Wind Up Plan, as prepared or amended in accordance with the requirements of section 14 of the *WDTA*, the terms of the Wind Up Plan, or pursuant to directions received from the Minister of Environment, Conservation and Parks, and as approved by RPRA. RPRA shall be entitled to continue to use the personal information provided to it in implementing its mandate under the *Resource Recovery and Circular Economy Act, 2016*, S.O. 206, c. 12, Sched 1.

## **TRANSFER OF DATA TO RPRA**

17. **THIS COURT ORDERS** that, subject to the provisions of paragraph 15 above, the Liquidator shall be authorized and directed to transfer all electronic data of OES to RPRA.

## **LIMITATION ON THE LIQUIDATOR'S LIABILITY**

18. **THIS COURT ORDERS** that the Liquidator, as well as any and all consultants properly engaged as contemplated under this Order, shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

## **LIQUIDATOR'S ACCOUNTS**

19. **THIS COURT ORDERS** that the costs, charges and expenses of the winding up, including the remuneration of the Liquidator and its counsel, are payable out of the Property of the Corporation in priority to all other claims. In connection therewith, the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings,

and that the Liquidator's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

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

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **SERVICE AND NOTICE**

22. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>.

23. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Corporation's creditors or other interested parties at their respective addresses as last shown on the records of the Corporation and that any such service or distribution by

courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

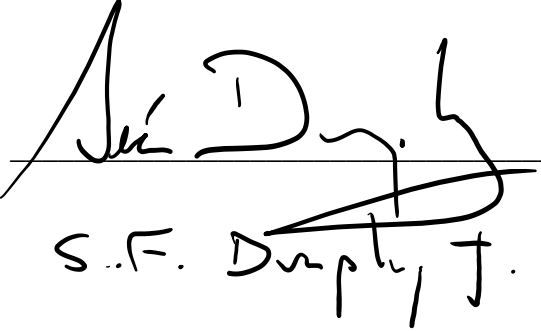
24. **THIS COURT ORDERS** that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

25. **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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

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

27. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than ten (10) days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

28. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without any need for entry and filing.



A handwritten signature in black ink, appearing to read "S.F. Dupl, J.", is written over a horizontal line. The signature is stylized, with a large, looped "D" and a trailing flourish.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Wind Up and Appointment of a Liquidator)**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
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Lawyers for the Applicant, Deloitte Restructuring Inc.

# **APPENDIX 2**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

MR. JUSTICE DUNPHY

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FRIDAY, THE 11<sup>TH</sup>

DAY OF JUNE, 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**CLAIMS PROCEDURE ORDER**



**THIS MOTION**, made by the Applicant pursuant to the *Corporations Act*, R.S.O. 1990, c. C.38, as amended (the “**Corporations Act**”) for an order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”), was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the affidavit of Richard Williams sworn May 31, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, counsel for Resource Productivity & Recovery Authority and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service of Katherine Yurkovich dated June 2, 2021, filed.

## INTERPRETATION

1. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) **“Appointment Order”** means the Order of Mr. Justice Dunphy made June 11, 2021 in these Proceedings;
- (b) **“Bar Date”** has the meaning given to it in paragraph 18 hereof;
- (c) **“Bar Date Order”** has the meaning given to it in paragraph 18 hereof;
- (d) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) **“Claim”** means any right of claim of any Person that may be asserted or made in whole or in part against OES, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (international 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 whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or 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 ability of any Person to advance a claim for contribution or indemnity or otherwise against OES with respect to any matter, action, cause or chose

in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof;

- (f) “**Claimant**” means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 23 and 24 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (g) “**Claims Package**” means the Pre-Populated Proof of Claim, the Proof of Claim form, the Notice to Claimants, the Instruction Letter, and any other documentation the Liquidator may deem appropriate;
- (h) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (i) “**Communication**” has the meaning given to it in paragraph 26 hereof;
- (j) “**Corporations Act**” means the *Corporations Act*, R.S.O. 1990, c. C.38, as amended;
- (k) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (l) “**Court Appointment Date**” means June 11, 2021;
- (m) “**Instruction Letter**” means the instruction letter to Claimants, substantially in the form attached as Schedule “B” hereto, regarding the completion of a Proof of Claim by a Claimant and the Claims Procedure described herein;
- (n) “**Known Claimants**” has the meaning given to it in paragraph 10 hereof;
- (o) “**Liquidator**” means Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator of OES;

- (p) **“Liquidator’s Website”** means the case website established by the Liquidator with the following URL: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>
- (q) **“Notice to Claimants”** means the notice for publication by the Liquidator as described in paragraph 12 hereof, in the form attached as Schedule “A”;
- (r) **“Notice of Revision or Disallowance”** means the notice referred to in paragraph 21 hereof, substantially in the form of Schedule “D” hereto, advising a Claimant that the Liquidator, has revised or rejected all or part of such Claimant’s Claim as set out in its Proof of Claim;
- (s) **“Orders”** means any and all orders issued by the Court within these Proceedings, including the Appointment Order;
- (t) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;
- (u) **“Pre-Populated Proof of Claim”** means the proof of claim pre-populated by the Liquidator stating the amount owing, if any, by OES to the Known Claimant based on the books and records of OES;
- (v) **“Proceedings”** means the within proceedings;
- (w) **“Proof of Claim”** means the Proof of Claim referred to in paragraph 16 hereof to be filed by Claimants, substantially in the form attached as Schedule “C”;

(x) **“Proof of Claims Filing Date”** means 5:00 p.m. (Eastern Time) on August 31, 2021; and

(y) **“Proven Claim”** means the amount of a Claim of a Claimant as finally determined in accordance with this Claims Procedure Order.

2. **THIS COURT ORDERS** that all references 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.

3. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

4. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

#### **GENERAL PROVISIONS**

5. **THIS COURT ORDERS** that the Liquidator is hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (ii) to request any further documentation from a Claimant that the Liquidator may reasonably require in order to determine a Claim.

6. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the receipt of a Pre-Populated Proof of Claim by a Claimant, solicitation by the Liquidator of Claims or the filing by any Claimant of any Claims shall not, for that reason only, grant any Person standing in these Proceedings.

7. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. 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 Court Appointment Date.

#### **LIQUIDATOR'S ROLE**

8. **THIS COURT ORDERS** that the Liquidator, in addition to its prescribed rights, duties, responsibilities and obligations under the Corporations Act and under the Appointment Order, shall administer the Claims Procedure, including the determination of Claims of the Claimants, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental thereto.

9. **THIS COURT ORDERS** that (i) in carrying out the terms of this Claims Procedure Order, the Liquidator shall have all of the protections given to it by the Corporations Act, the Appointment Order, and this Claims Procedure Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Liquidator shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Liquidator has acted with gross negligence or willful misconduct, (iii) the Liquidator shall be entitled to rely on the books and records of OES and any information provided by OES or its agents, all without independent investigation, and (iv) the Liquidator shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Liquidator has acted with gross negligence or willful misconduct.

#### **NOTICE TO CLAIMANTS AND CLAIMS PACKAGES**

10. **THIS COURT ORDERS** that the Liquidator shall compile a list of known potential Claimants from the books and records of OES (the "**Known Claimants**") and each a "**Known Claimant**") as at the

Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.

11. **THIS COURT ORDERS** that the Liquidator shall send a Claims Package to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile number of the Known Claimant if an email address for such Known Claimant is not known, by no later than June 30, 2021.

12. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on June 30, 2021, the Liquidator shall cause the Notice to Claimants to be published, for at least two (2) Business Days, at an interval of one week, in each of *The Globe and Mail* (National Edition) and *The Toronto Star*.

13. **THIS COURT ORDERS** that the Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted to the Liquidator's Website as soon as reasonably practicable and cause it to remain posted thereon until its discharge as Liquidator of OES.

14. **THIS COURT ORDERS** that upon request by a Claimant for a Claims Package or documents or information relating to the Claims Procedure prior to the Proof of Claims Filing Date, the Liquidator shall forthwith send a Claims Package, direct such Person to the documents posted on the Liquidator's Website, or otherwise respond to the request for information or documents as the Liquidator considers appropriate in the circumstances.

15. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim, Instruction Letter and Notice of Revision or Disallowance, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Liquidator may, from time to time, make such minor changes to such forms as the Liquidator considers necessary or desirable.

## **PROOFS OF CLAIM TO BE FILED PRIOR TO PROOF OF CLAIMS FILING DATE**

16. **THIS COURT ORDERS** that any Person who (i) disagrees with, or wishes to assert a Claim in addition to the Claim stated in the Pre-Populated Proof of Claim received by such Person, or (ii) wishes to assert a Claim, must deliver to the Liquidator, on or before the Proof of Claims Filing Date, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

17. **THIS COURT ORDERS** that not less than five (5) business days following the Proof of Claims Filing Date, the Liquidator shall send a notice to the Known Claimants who have not filed a Proof of Claim reminding them of the Proof of Claims Filing Date and informing them of the Liquidator's intention to seek a Bar Date Order.

18. **THIS COURT ORDERS** that as soon as practicable following the Proof of Claims Filing Date, and in any case no less than three (3) days following the delivery of the notice referred to in paragraph 17 above, the Liquidator shall bring a motion to the Court, on notice to the Service List and Known Claimants referred to in paragraph 17 above, for an Order (the "**Bar Date Order**") providing, amongst other things, for a date (the "**Bar Date**") after which:

- (a) the Claim of any Person who received a Pre-Populated Proof of Claim in accordance with paragraph 11 and did not return a Proof of Claim by the Bar Date shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished;
- (b) any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim by the Bar Date shall:



- (i) 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 Proceedings in respect of such Claim; and
- (ii) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

### **ADJUDICATION OF CLAIMS**

19. **THIS COURT ORDERS** that the Liquidator shall review all Proofs of Claim filed in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;
- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim;
- (d) accept (in whole or in part), any Claim and so notify the Claimant in writing; and
- (e) revise or disallow (in whole or in part) any Claim and so notify the Claimant in writing.

20. **THIS COURT ORDERS** that where a Claim has been accepted by the Liquidator in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or status of any claim by any Person, save and except in the context of these Proceedings. In these Proceedings, a Claim shall be deemed accepted by the Liquidator (i) if included in a Pre-Populated Proof of Claim, (ii) if,

following the receipt of a Proof of Claim, the Liquidator does not issue a Notice of Revision or Disallowance pursuant to paragraph 21 hereof, or (iii) as resolved in accordance with paragraphs 21 and 22 hereof.

## **RESOLUTION OF CLAIMS**

21. **THIS COURT ORDERS** that as soon as practicable after a Proof of Claim is received by the Liquidator in accordance with this Claims Procedure Order, the Liquidator may attempt to resolve and settle the Claim with the Claimant. If, in the Liquidator's determination, the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.

22. **THIS COURT ORDERS** that any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance, shall bring, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim, a motion to the Court to seek a determination by the Court of the disputed Claim.

## **NOTICE OF TRANSFEREES**

23. **THIS COURT ORDERS** that the Liquidator shall not be obligated to give notice to or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Liquidator in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Liquidator of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which OES may be entitled with respect to such Claim. For greater certainty, a transferee

or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to OES.

24. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Liquidator as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Liquidator shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Liquidator, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

## **SERVICE AND NOTICES**

25. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order and the Proof of Claims Filing Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

26. **THIS COURT ORDERS** that the Liquidator may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, and any letters, notices or other documents (a “**Communication**”) to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of OES or

set out in such Claimant's Proof of Claim; provided, however, that if the Liquidator receives notice that the Communication cannot be delivered at the address used by the Liquidator and the Liquidator has an alternative address for such Claimant, the Liquidator shall attempt to deliver the Communication to such alternate address. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) 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.

27. **THIS COURT ORDERS** that any notice or communication (including Proofs of Claim) to be given under this Claims Procedure Order by any Person to the Liquidator shall be in writing in substantially the form provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

Deloitte Restructuring Inc.  
Court-appointed Liquidator of Ontario Electronic Stewardship  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

28. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and 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 Claims Procedure Order.

29. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further order of the Court, the Liquidator shall post such further order on the Liquidator's Website, and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

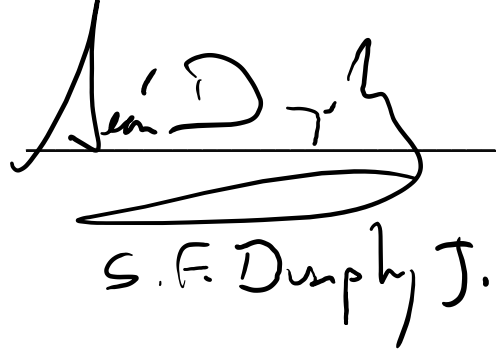
#### **MISCELLANEOUS**

30. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Liquidator may apply to this Court from time to time for directions from this Court with respect to this Claims Procedure Order, or for such further order or orders as it may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

31. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

32. **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, or abroad, to give effect to this Claims Procedure Order and to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to OES in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order.

33. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.



A handwritten signature, appearing to read "S.F. Dunphy J.", is written over a horizontal line. The signature is stylized, with a large, sweeping flourish that extends below the line. Below the signature, the text "S.F. Dunphy J." is written in a clear, handwritten font.

## **SCHEDULE “A”**

### **NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP**

#### **RE: NOTICE OF PROOF OF CLAIMS FILING DATE IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person who wishes to assert a Claim, must deliver to Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “**Liquidator**”), on or before the Proof of Claims Filing Date stated below, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

**Pursuant to the Claims Procedure Order, the Proof of Claims Filing Date is 5:00 p.m. (Eastern Time) on August 31, 2021.** Proofs of Claim must be completed and filed with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) AFTER WHICH ALL CLAIMS THAT HAVE NOT BEEN FILED WITH THE LIQUIDATOR WILL BE FOREVER BARRED AND EXTINGUISHED.**

**PLEASE TAKE NOTICE** that the Liquidator will cause Claims Packages including a Pre-Populated Proof of Claim to be sent to all Known Claimants on or before June 30, 2021. If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert a further Claim, you must complete and file a Proof of Claim form with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) PROVIDING THAT THE CLAIM OF ANY PERSON WHO HAS RECEIVED A PRE-POPULATED PROOF OF CLAIM AND DOES NOT RETURN A PROOF OF CLAIM ON OR BEFORE THE CLAIMS BAR DATE (TO BE ESTABLISHED PURSUANT TO THE BAR DATE ORDER), WILL BE DEEMED TO BE AS SET OUT IN THE PRE-POPULATED PROOF OF CLAIM AND SUCH CLAIMANT WILL BE BARRED FROM DISPUTING OR APPEALING SAME, AND THE BALANCE OF SUCH CLAIM, IF ANY, SHALL BE FOREVER BARRED AND EXTINGUISHED.**

A copy of the Claims Procedure Order and the Claims Package is available at the following website: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

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

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392



## SCHEDULE “B”

### INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE OF ONTARIO ELECTRONIC STEWARDSHIP

#### CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated June 11, 2021 (as such Order may be amended from time to time, the “**Claims Procedure Order**”) Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship (“**OES**”), has been authorized to conduct a claims procedure (the “**Claims Procedure**”). A copy of the Claims Procedure Order and other public information concerning this proceeding is available on the Liquidator’s website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>.

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 serves to identify and determine the amount of any claims against OES. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

Please direct all forms and inquiries with respect to the Claims Procedure to the Liquidator by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES  
Claims Process  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

#### FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against OES and you have not received a Pre-Populated Proof of Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Proof of Claims Filing Date**”). If you do not file a Proof of Claim in respect of such Claim by the Proof of Claims Filing Date, note that as soon as practicable following the Proof of Claims Filing Date the Liquidator shall bring a motion to the Court for an Order setting a final bar date (the “**Bar Date Order**”), after which all claims that have not been filed with the Liquidator shall 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 Proceedings in respect of such Claim and you will be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert an additional Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Proof of Claims Filing Date**”). Note that as soon as practicable following the Proof of Claims Filing Date the Liquidator shall bring a motion to the Court for the Bar Date Order providing that the Claim of any person who has received a Pre-Populated Proof of Claim and does not return a Proof of Claim by the claims bar date (to be established pursuant to the Bar Date Order) will be deemed to be as set out in the Pre-

Populated Proof of Claim and such Known Claimant will be barred from disputing or appealing same, and the balance of such Claim, if any, shall be forever barred and extinguished.

#### **ADDITIONAL FORMS**

Additional Proof of Claim forms are available on the Liquidator's website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx> or by contacting the Liquidator.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**SCHEDULE "C"**  
**PROOF OF CLAIM FORM**

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

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**PROOF OF CLAIM**

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**1. PARTICULARS OF CREDITOR**

Full Legal Name of Creditor:

Full Mailing Address of Creditor:

Telephone Number of Creditor:

Facsimile Number of Creditor:

E-mail Address of Creditor:

Attention (Contact Person):

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

Have you acquired this Claim by assignment?

Yes   ☐   No   ☐

(if yes, attach documents evidencing assignment)

Full Legal Name of original creditors(s): \_\_\_\_\_

3. **PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

That I am a Creditor of Ontario Electronic Stewardship (“OES”) / I hold the position of \_\_\_\_\_ of the Creditor;

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

OES was and still is indebted to the Creditor as follows:<sup>1</sup>

Debtor	Claim Amount
Ontario Electronic Stewardship	

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned’s 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 allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed).*

5. **FILING OF CLAIM**

This Proof of Claim must be returned to, and received by, the Liquidator by **5:00 p.m. (Toronto Time) on the Proof of Claims Filing Date (August 31, 2021)**.

Completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Liquidator at the following address:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

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<sup>1</sup> 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 Court Appointment Date

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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*(signature of creditor 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”  
NOTICE OF REVISION OR DISALLOWANCE**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C.  
C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

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**NOTICE OF REVISION OR DISALLOWANCE**

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**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) dated June 11, 2021 (the “**Claims Procedure Order**”).

Pursuant to the Claims Procedure Order, Deloitte Restructuring Inc. in its capacity as the court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship hereby gives you notice that it has reviewed your 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:

<b>Debtor</b>	<b>Amount of Claim per Proof of Claim</b>	<b>Amount of Claim Allowed per this Notice of Revision or Disallowance</b>
ONTARIO ELECTRONIC STEWARDSHIP	CAD \$	CAD \$

Reasons for Revision or Disallowance

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**PROCEDURE TO APPEAL THIS NOTICE OF REVISION OR DISALLOWANCE**

If you disagree with the amount of your Claim allowed pursuant to this Notice of Revision or Disallowance, you must, **within thirty (30) days** after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order, bring a motion in the Proceedings to seek a determination by the Court of the disputed Claim.

If you do not bring a motion for the determination by the Court of the disputed Claim, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

**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 \_\_\_\_\_, 2021.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**CLAIMS PROCEDURE ORDER**

**GOWLING WLG (CANADA) LLP**

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Lawyers for the Applicant, Deloitte Restructuring Inc.



## **APPENDIX 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 8<sup>TH</sup>

MR. JUSTICE CAVANAGH

)

DAY OF OCTOBER, 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

MOTION PURSUANT TO S. 260 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**BAR DATE ORDER**



**THIS MOTION**, made by the Applicant pursuant to section 260 of the *Corporations Act*, R.S.O. 1990, c. C.38, as amended (the “**Corporations Act**”) (which incorporates by reference sections 25-27 of the *Assignments and Preferences Act*, R.S.O. 1990, c. A.33), for an order (the “**Bar Date Order**”) approving a Bar Date following Deloitte Restructuring Inc.’s, in its capacity as Court-appointed liquidator (the “**Liquidator**”), administration of the Claims Procedure for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”), was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the Claims Procedure Order (the “**Claims Procedure Order**”) granted by his Honour Mr. Justice Dunphy on June 11, 2021, the first report of the Liquidator dated September 23, 2021 and the appendices thereto, and on hearing the submissions of counsel for the Applicant, and those other parties that were present as listed on the counsel slip, no other party appearing

although duly served as appears from the affidavit of service of Katherine Yurkovich dated September 23, 2021, filed.

### **INTERPRETATION**

1. **THIS COURT ORDERS** that defined terms used herein shall have the meanings ascribed to them in the Claims Procedure Order.

2. **THIS COURT ORDERS** that the Bar Date to be set pursuant to the Claims Procedure Order shall be 5:00 p.m. (Eastern Time) on October 21, 2021.

### **LIQUIDATOR'S ROLE**

3. **THIS COURT ORDERS** that (i) in carrying out the terms of this Bar Date Order, the Liquidator shall have all of the protections given to it by the *Corporations Act*, the Appointment Order, the Claims Procedure Order, and this Bar Date Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Liquidator shall incur no liability or obligation as a result of the carrying out of the provisions of this Bar Date Order, except to the extent that the Liquidator has acted with gross negligence or willful misconduct, (iii) the Liquidator shall be entitled to rely on the books and records of OES and any information provided by OES or its agents, all without independent investigation, and (iv) the Liquidator shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Liquidator has acted with gross negligence or willful misconduct.

### **PROOFS OF CLAIM TO BE FILED PRIOR TO CLAIMS BAR DATE**

4. **THIS COURT ORDERS** that, in accordance with paragraph 18 of the Claims Procedure Order, if any Person who received a Pre-Populated Proof of Claim in accordance with paragraph 11 of the Claims Procedure Order does not return a Proof of Claim in accordance with paragraph 16 of the Claims Procedure

Order by the Bar Date, such Claim shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.

5. **THIS COURT ORDERS** that, in accordance with Paragraph 18 of the Claims Procedure Order, any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim in accordance with paragraph 16 of the Claims Procedure Order with the Liquidator by the Bar Date shall:

- (a) 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 Proceedings in respect of such Claim; and
- (b) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

## **SERVICE AND NOTICES**

6. **THIS COURT ORDERS** that the posting of this Bar Date Order on the Liquidator's Website shall constitute good and sufficient service and delivery of notice of this Bar Date Order and the Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of the Claims Procedure Order or this Bar Date Order.

7. **THIS COURT ORDERS** that the Liquidator may, unless otherwise specified by the Claims Procedure Order, serve and deliver any letters, notices or other documents to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of OES or set out in such Claimant's Proof of Claim. Any

such service and delivery shall deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) 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.

## **MISCELLANEOUS**

8. **THIS COURT ORDERS** that notwithstanding the terms of this Bar Date Order, the Liquidator may apply to this Court from time to time for directions from this Court with respect to this Bar Date Order, or for such further order or orders as it may consider necessary or desirable to amend, supplement or clarify the terms of this Bar Date Order.

9. **THIS COURT ORDERS** that this Bar Date Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

10. **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, or abroad, to give effect to this Bar Date Order and to assist the Liquidator and its respective agents in carrying out the terms of this Bar Date Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Bar Date Order, to grant representative status to OES in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Bar Date Order.

11. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Bar Date Order and for assistance in carrying out the terms of this Bar Date Order.



Digitally signed  
by Mr. Justice  
Cavanagh

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IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
MOTION UNDER S. 260 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
  
PROCEEDING COMMENCED AT  
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**BAR DATE ORDER**

**GOWLING WLG (CANADA) LLP**

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Lawyers for the Applicant, Deloitte Restructuring Inc.

## **APPENDIX 4**



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

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP**

**MOTION PURSUANT TO S. 260 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

Applicant

**FIRST REPORT TO THE COURT SUBMITTED BY DELOITTE RESTRUCTURING INC. IN  
ITS CAPACITY AS COURT APPOINTED LIQUIDATOR OF ONTARIO ELECTRONIC  
STEWARDSHIP**

**(SEPTEMBER 23, 2021)**

## **LIST OF APPENDICES**

<b>Appendix 1</b>	Appointment Order granted June 11, 2021
<b>Appendix 2</b>	Claims Procedure Order granted June 11, 2021
<b>Appendix 3</b>	Affidavit of Richard Williams sworn May 31, 2021, excluding exhibits
<b>Appendix 4</b>	Notice to Known Claimants of the Liquidator's Motion to seek the Bar Date Order sent September 13, 2021
<b>Appendix 5</b>	Copy of the Notice to Claimants published in the <i>Globe and Mail</i> on June 25, 2021 and July 2, 2021
<b>Appendix 6</b>	Copy of the Notice to Claimants published in the <i>Toronto Star</i> on June 27, 2021 and July 4, 2021
<b>Appendix 7</b>	Notice to Known Claimants of the Liquidator's Motion to seek the Bar Date Order sent September 23, 2021

## INTRODUCTION AND BACKGROUND

1. On February 8, 2018, the Minister of the Environment and Climate Change directed Ontario Electronic Stewardship (“**OES**”) to develop a plan to wind up the Waste Electrical and Electronic Equipment Program pursuant to the *Resource Recovery and Circular Economy Act, 2016*, SO 2016, c 12, Sched 1. OES submitted its wind-up plan (the “**Plan**”) to the Resource Productivity and Recovery Authority (“**RPRA**”) on July 25, 2019. The Plan was conditionally approved by RPRA on August 20, 2019.
2. As contemplated by the Plan, the OES Board of Directors (the “**Board**”) passed a resolution on February 24, 2021 requiring OES to be wound up voluntarily under the provisions of the *Corporations Act*, RSO 1990, C C38 (the “**Corporations Act**”). The Board appointed Deloitte Restructuring Inc. (“**Deloitte**”) as liquidator effective April 1, 2021.
3. On June 11, 2021, on application made by Deloitte, in its capacity as privately-appointed liquidator of OES, to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), Mr. Justice Dunphy issued:
  - (a) an Order (the “**Appointment Order**”) appointing Deloitte as court-appointed liquidator (the “**Liquidator**”), without security, of all of the assets, undertakings and properties of OES including all proceeds thereof or any sum or balance due from any contributory to which OES is entitled (the “**Property**”) for the purpose of winding up the business and affairs of OES and distributing the Property; and
  - (b) an Order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of OES.

A copy of the Appointment Order and the Claims Procedure Order, as granted, are attached as **Appendix “1”** and **Appendix “2”**, respectively.
4. The proceedings (hereinafter referred to as the “**Winding Up Proceedings**”) were commenced by way of an application made by Deloitte (the “**Application**”) under sections 243, 244 and 246 of the Corporations Act. The Corporations Act provides at section 260 that the identification and determination of any claim against a winding up entity must be conducted in accordance with the process contemplated in sections 25-27 of the *Assignments and Preferences Act*, RSO 1990, c A33 (the “**Assignments and Preferences Act**”).

5. Further background information pertaining to the commencement of the Winding Up Proceedings can be found in the Affidavit of Richard Williams sworn May 31, 2021, a copy of which is attached without exhibits as **Appendix “3”**.

## **PURPOSE OF THE FIRST REPORT**

6. The purpose of this first report of the Liquidator (the “**First Report**”) is to:
  - (a) inform the Court of the Liquidator’s activities so far in the Winding Up Proceedings, including in implementing the Claims Procedure Order; and
  - (b) provide the Court with information in support of the Liquidator’s motion returnable before the Court on October 8, 2021, by zoom video-conference at 11:00 am, for an order (the “**Bar Date Order**”), made pursuant to both paragraph 18 of the Claims Procedure Order and section 260 of the Corporations Act, fixing a claims bar date of October 21, 2021 (the “**Bar Date**”).

## **TERMS OF REFERENCE AND DISCLAIMER**

7. In preparing this First Report, the Liquidator has relied upon certain audited and unaudited financial information, and other information contained in the books and records of OES (collectively, the “**Information**”). Except as otherwise described in this First Report, the Liquidator has not audited, reviewed or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would comply with Canadian Generally Accepted Assurance Standards.
8. This First Report has been prepared for the use of the Court to provide general information and an update regarding the Winding Up Proceedings for the purpose of assisting the Court in making a determination as to whether to approve the relief sought. This First Report should not be relied on for any other purpose. The Liquidator will not assume responsibility or liability for losses incurred as a result of the circulation, publication, reproduction or use of this First Report contrary to the provisions of this paragraph.
9. Capitalized terms not defined in this First Report are as defined in the Claims Procedure Order.
10. Copies of materials filed in the Winding Up Proceedings to date are available on the Liquidator’s Website at: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

## OVERVIEW OF THE CLAIMS PROCEDURE

11. At the hearing of the Application on June 11, 2021, his Honour Justice Dunphy directed that the Claims Procedure Order contemplate the Liquidator bringing a motion to the Court at a later date for an order setting a claims bar date following adequate notice to Known Claimants that had not yet filed a Proof of Claim in accordance with the provisions of the Claims Procedure Order. This First Report is in support of this motion.
12. Salient features and a timeline of the Claims Procedure provided under the Claims Procedure Order are contained in the below table:

<b><i>Proof of Claims to Known Claimants [paragraph 10 of the Claims Procedure Order]</i></b>	
<b>Following the Court Appointment Date</b>	Liquidator shall compile a list of Known Claimants as at the Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.
<b><i>Notification Process [paragraphs 11 - 13 of the Claims Procedure Order]</i></b>	
<b>No later than June 30, 2021</b>	Liquidator shall send a Claims Package (which, for greater certainty, shall include a Pre-Populated Proof of Claim) to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES.
<b>No later than 5:00 pm on June 30, 2021</b>	Liquidator shall cause the Notice to Claimants to be published, for at least two (2) Business Days, at an interval of one week, in each of <i>The Globe and Mail</i> (National Edition) and the <i>Toronto Star</i> .
<b>Following Publication in <i>The Globe and Mail</i> and <i>Toronto Star</i></b>	Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted on the Liquidator's Website
<b><i>Proof of Claims Filing Date [paragraphs 16-17 of the Claims Procedure Order]</i></b>	
<b>August 31, 2021 (the "Proof of Claims Filing Date")</b>	Any Person who (i) disagrees with the Claim stated in the Pre-Populated Proof of Claim, or (ii) wishes to assert a Claim, must deliver to the Liquidator, on or before the Proof of Claims Filing Date, a completed Proof of Claim, including all relevant supporting documentation.
<b>Not less than five (5) business days following the Proof of Claims Filing Date</b>	Liquidator shall send a notice (a "Notice") to the Known Claimants who have not filed a Proof of Claim reminding them of the Proof of Claim Filing Date and informing them of the Liquidator's intention to seek a Bar Date Order. The Liquidator sent that Notice, which is attached as <b>Appendix "4"</b> , on September 13, 2021.
<b><i>Bar Date [paragraph 18 of the Claims Procedure Order]</i></b>	

<b>Not less than three (3) days following delivery of a Notice</b>	Liquidator shall bring a motion to the Court, on notice to the Service List and Known Claimants who received a Notice, for the Bar Date Order providing, amongst other things, for a Bar Date.
<b>Impact of the Bar Date</b>	<p>If any Person who received a Pre-Populated Proof of Claim did not return a Proof of Claim in the manner noted above by the Bar Date, such Claim shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.</p> <p>Any Person who did not receive a Pre-Populated Proof of Claim and did not file a Proof of Claim with the Liquidator pursuant to the Claims Procedure Order by the Bar Date shall:</p> <p>(a) 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 Proceedings in respect of such Claim; and</p> <p>(b) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.</p>
<b><i>Adjudication and Resolution of Claims [paragraphs 21-22 of the Claims Procedure Order]</i></b>	
<b>Following the Liquidator's receipt of Proofs of Claim</b>	As soon as practicable after a Proof of Claim is received by the Liquidator, the Liquidator will attempt to resolve and settle the Claim with the Claimant. If the Liquidator determines, in its sole discretion, acting reasonably, that the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.
<b>30 Days Following Receipt of a Notice of Revision or Disallowance</b>	Any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance shall bring a motion to the Court to seek a determination by the Court of the disputed Claim, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim.

## **ACTIVITIES SINCE THE GRANTING OF THE CLAIMS PROCEDURE ORDER**

### **Activities related to the Claims Procedure Order**

13. Following the issuance of the Claims Procedure Order, the Liquidator took immediate steps to implement the Claims Procedure.
14. On June 14<sup>th</sup>, 2021, the Liquidator posted the Claims Procedure Order appending the Claims Package and the Notice to Claimants to the Liquidator's Website.

15. On or about June 24<sup>th</sup>, 2021 the Liquidator sent Claims Packages to 1,969 Known Claimants by email to the last known email address of the Known Claimants set out in the books and records of OES.
16. On Friday, June 25<sup>th</sup> and Friday, July 2<sup>nd</sup>, 2021, the Liquidator published the Notice to Claimants in *The Globe and Mail* (National Edition). On Sunday, June 27<sup>th</sup> and Sunday, July 4<sup>th</sup>, 2021, the Liquidator published the Notice to Claimants in the *Toronto Star*. A copy of the Notice to Claimants published in the *Globe and Mail* and the *Toronto Star* are attached as **Appendix “5”** and **Appendix “6”**, respectively. With respect to the Notice to Claimants published in the *Toronto Star*, advertisements of this nature are only available for publication on Sundays. Accordingly, the Notice to Claimants was posted in the Sunday edition of the *Toronto Star* rather than a Business Day (as called for under the terms of the Claims Procedure Order), as the *Toronto Star* has a larger readership than alternative publications that were available.
17. Following the delivery of Claims Packages to the Known Claimants, 4 Known Claimants filed Proofs of Claim with the Liquidator. RPRA filed a Proof of Claim for future amounts owing to it pursuant to applicable legislation. Another Known Claimant filed a Proof of Claim, the quantum of which is disputed by the Liquidator. At the time of filing this First Report, discussions between that Known Claimant and the Liquidator continue. Another two Known Claimants each filed a Proof of Claim, the amounts of which are each admitted by the Liquidator. Other than previously stated, no other Proof of Claim(s) have been returned to the Liquidator.
18. On Monday, September 13<sup>th</sup>, 2021 the Liquidator sent the Notice to Known Claimants advising such Known Claimants of the Liquidator’s intention to seek the Bar Date Order.
19. Following the delivery of the Notice, the hearing date for the Liquidator’s motion to seek the Bar Date Order was rescheduled to October 8, 2021 (the “**Hearing Date**”), given the Court’s closure for the observance of the National Day for Truth and Reconciliation.
20. On Thursday, September 23, 2021 the Liquidator delivered a further notice to the Known Claimants that had not yet filed a Proof of Claim, advising such Known Claimants of the Hearing Date, providing a link to the Liquidator’s Website where the Liquidator’s Motion Record and supporting documentation would be available for download, and providing interested parties with information regarding how to request attendance at the hearing of the motion for the Bar Date Order. A copy of the notice sent September 23, 2021 is attached as **Appendix “7”**.

21. The Claims against OES may be summarized as follows:

Aggregate Known Claims as per Pre-Populated Proofs of Claims:	\$36,879.17
Aggregate Additional Proofs of Claims Filed:	\$240,930.12
Aggregate Additional Claims Disputed:	\$151,498.30
Aggregate Additional Claims Admitted:	\$89,431.82

### **Other Activities**

22. In addition to the foregoing, the Liquidator has:

- (a) Developed a data management plan with respect to the preservation and transfer of data (the “**OES Data**”) held by OES and by the Electronic Products Recycling Association (“**EPRA**”) in its capacity as administrative agent of OES;
- (b) Taken steps to preserve and transfer the OES Data as contemplated by the data management plan;
- (c) Prepared and filed GST/HST returns on behalf of OES;
- (d) Maintained and reconciled the Liquidator’s trust account, including the settlement of obligations incurred after the issuance of the Appointment Order;
- (e) Corresponded with creditors, RPRA, EPRA and other stakeholders; and
- (f) Engaged Deloitte LLP to pursue a recovery of GST/HST remitted prior to the issuance of the Appointment Order. Depending on the outcome of the communications between Deloitte LLP and Canada Revenue Agency, the Liquidator will consider the appropriate next steps in order to pursue the recovery of these amounts.

### **BAR DATE ORDER**

23. Paragraph 18 of the Claims Procedure Order provides that:



“as soon as practicable following the Proof of Claims Filing Date, and in any case no less than three (3) days following the delivery of the [Notice], the Liquidator shall bring a motion to the Court, on notice to the Service List and Known Claimants..., for an Order (the “**Bar Date Order**”) providing, amongst other things, for a date (the “**Bar Date**”)...”

24. As discussed above, the Proof of Claims Filing Date, August 31, 2021, has passed. The Liquidator seeks the Bar Date Order at this time in order to complete the Claims Procedure and continue with the winding up of OES in accordance with the Plan.
25. The relief sought in this motion is pursuant to and in accordance with, the terms of the Claims Procedure Order, and ample notice of both the Proof of Claims Filing Date and the Bar Date Order has been given to all Known Claimants and potential Claimants to date. In light of the foregoing, it is the Liquidator’s opinion that it is appropriate for the Court to grant the Bar Date Order at this time.

#### **LIQUIDATOR’S RECOMENDATION**

26. The Liquidator submits this First Report to the Court in support of the Liquidator’s motion for the relief as set out in the Notice of Motion dated September 23, 2021, and recommends that the Court grant the Bar Date Order, as filed at Tab 3 of the Liquidator’s Motion Record dated September 23, 2021

All of which is respectfully submitted this 23<sup>rd</sup> day of September, 2021.

**DELOITTE RESTRUCTURING INC.**, in its  
capacity as Court-appointed Liquidator of  
Ontario Electronic Stewardship



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Richard Williams CIRP LIT  
Senior Vice President



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Jorden Sleeth CA CIRP LIT  
Senior Vice President

# **APPENDIX 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.

)

FRIDAY, THE 11<sup>TH</sup>

JUSTICE DUNPHY

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DAY OF JUNE, 2021

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IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**ORDER  
(Wind Up and Appointment of a Liquidator)**

**THIS APPLICATION** made by the Applicant for an Order pursuant to sections 243(b), (d) and 246 of the *Corporations Act*, R.S.O. 1990, c. C. 38, as modified by Ontario Regulation 357/17 (the “*Corporations Act*”) appointing Deloitte Restructuring Inc. as Court-appointed liquidator (in such capacity, the “**Liquidator**”) without security, of all of the assets, undertakings and properties of Ontario Electronic Stewardship (“**OES**” or the “**Corporation**”) was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Richard Williams sworn May 31, 2021 (the “**Williams Affidavit**”) and the Exhibits thereto and the consent of Deloitte Restructuring Inc. to act as the Liquidator, and on hearing the submissions of counsel for the Applicant, counsel for Resource Productivity & Recovery Authority, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Katherine Yurkovich sworn June 2, 2021 and on reading the consent of Deloitte Restructuring Inc. to act as the Liquidator,

## WINDING UP AND APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to section 243 of the *Corporations Act*, the Corporation be wound up in accordance with the terms of this Order.
2. **THIS COURT ORDERS** that pursuant to sections 243 and 246 of the *Corporations Act*, Deloitte Restructuring Inc. is hereby appointed Liquidator, without security, of all of the assets, undertakings and properties of the Corporation including all proceeds thereof or any sum or balance due from any contributory to which the Corporation is entitled (the “**Property**”) for the purpose of winding up the Corporation’s business and affairs and distributing its Property. The winding up shall be completed in accordance with the terms of the Corporation’s plan to wind up the Corporation attached as Exhibit F to the Williams Affidavit (the “**Wind Up Plan**”), or pursuant to directions received from the Minister of the Environment, Conservation and Parks, and as approved by the Resource Productivity and Recovery Authority (“**RPRA**”), or as otherwise ordered by the Court.

## LIQUIDATOR’S POWERS

3. **THIS COURT ORDERS** that the Liquidator, in exercising its powers and performing its functions, including, without limitation, all such powers under the *Corporations Act*, shall act as the agent of the Corporation and shall be empowered to exercise all powers and authorities in lieu, and in stead, of the officers and directors of the Corporation, including the Corporation’s power and authority to make or amend rules pursuant to the *Waste Diversion Transition Act*, 2016, S.O. 2016, c.12, Sched 2 (the “**WDTA**”), and in exercising and performing any such powers pursuant to this order, or any further order of this Court made in this proceeding, only the Corporation shall be liable for any act performed or thing done by the Liquidator pursuant to the powers conferred upon it by this order or any other order of this Court made in this proceeding and the Liquidator shall have no personal liability therefore.
4. **THIS COURT ORDERS** that the Liquidator shall review all of the Property and shall make inquiries as to any security, rights, claims or other interests asserted in, to or against any of the Property.

5. **THIS COURT ORDERS** that Liquidator may, in the course of its determination as to the assets, liabilities and claims against the Property, apply to this Court for directions as to any process or processes for the determination of the claims and entitlements of all persons who may have rights as creditors, claimants to interests in the Property, or against the Corporation or any of its Property and, subject to such claims process, may request any other directions concerning any further steps to realize upon the Property and to complete the liquidation of the Corporation.

6. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage 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 Liquidator's powers and duties, including without limitation those conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Corporation and to exercise all remedies of the Corporation in collecting such monies, including, without limitation, to enforce any security held by the Corporation;

- (e) to settle, extend or compromise any indebtedness owing to the Corporation;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the name and on behalf of the Corporation, for any purpose pursuant to this Order;
- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Corporation, the Property or the Liquidator, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required.

- (j) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property and the wind up, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (m) to apply 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, if thought desirable by the Liquidator, in the name of the Corporation;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Corporation may have;
- (o) to apply the Property of the Corporation in satisfaction of all its debts, obligations and liabilities;
- (p) to facilitate the transfer to RPRA of all commercial data and information in the possession of the Corporation in accordance with the terms of the Corporation's Wind Up Plan; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Liquidator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Corporation, and without interference from any other Person. For avoidance of doubt, nothing in this Order will detract from, or diminish, the obligation of the Liquidator, in the

name of the Corporation, to continue to pay any and all amounts that the Corporation is required to pay under the *WDTA*.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR**

7. **THIS COURT ORDERS** that the Corporation, all of its current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Liquidator of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator’s request.

8. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

9. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying



the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE LIQUIDATOR**

10. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE CORPORATION OR THE PROPERTY**

11. **THIS COURT ORDERS** that, no Proceeding against or in respect of the Corporation or the Property shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Corporation or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

12. **THIS COURT ORDERS** that all rights and remedies against the Corporation, the Liquidator, or affecting the Property, are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, and further provided that nothing in this paragraph shall (i) empower the Liquidator or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on, (ii) exempt the Liquidator or the Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE LIQUIDATOR**

13. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Corporation, without written consent of the Liquidator or leave of this Court.

### **CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Corporation or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Corporation are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Corporation's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Corporation or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

### **LIQUIDATOR TO HOLD FUNDS**

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Liquidator from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property, the pursuit of any claim of OES, and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Liquidator (the "**Liquidation Accounts**") and the monies standing to the credit of such Liquidation Accounts from time to time, net of any disbursements provided for herein, shall be held by the Liquidator to be paid in accordance with the terms of this Order or any further Order of this Court.

## **PIPEDA**

16. **THIS COURT ORDERS** that, to facilitate the transfer of personal information held by the Corporation to RPRA as required under sub-section 14(12) of the *WDTA*, pursuant to clauses 7(3)(c) and 7(3)(i) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to RPRA and its advisors, but only to the extent desirable or required to carry out the Corporation's Wind Up Plan, as prepared or amended in accordance with the requirements of section 14 of the *WDTA*, the terms of the Wind Up Plan, or pursuant to directions received from the Minister of Environment, Conservation and Parks, and as approved by RPRA. RPRA shall be entitled to continue to use the personal information provided to it in implementing its mandate under the *Resource Recovery and Circular Economy Act, 2016*, S.O. 206, c. 12, Sched 1.

## **TRANSFER OF DATA TO RPRA**

17. **THIS COURT ORDERS** that, subject to the provisions of paragraph 15 above, the Liquidator shall be authorized and directed to transfer all electronic data of OES to RPRA.

## **LIMITATION ON THE LIQUIDATOR'S LIABILITY**

18. **THIS COURT ORDERS** that the Liquidator, as well as any and all consultants properly engaged as contemplated under this Order, shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

## **LIQUIDATOR'S ACCOUNTS**

19. **THIS COURT ORDERS** that the costs, charges and expenses of the winding up, including the remuneration of the Liquidator and its counsel, are payable out of the Property of the Corporation in priority to all other claims. In connection therewith, the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings,

and that the Liquidator's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

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

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **SERVICE AND NOTICE**

22. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>.

23. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Corporation's creditors or other interested parties at their respective addresses as last shown on the records of the Corporation and that any such service or distribution by

courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

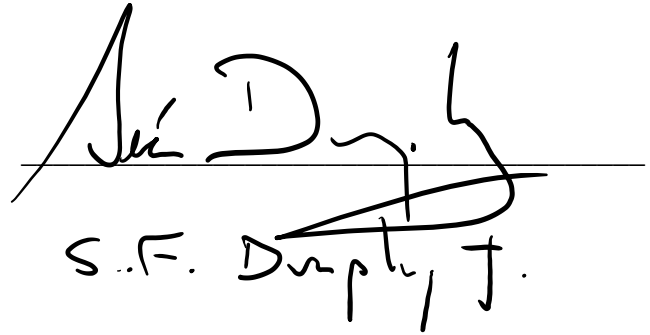
24. **THIS COURT ORDERS** that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

25. **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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

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

27. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than ten (10) days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

28. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without any need for entry and filing.



A handwritten signature in black ink, appearing to read "S.F. Dupl, J.", is written over a horizontal line. The signature is stylized and cursive.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Wind Up and Appointment of a Liquidator)**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

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**Tel:** 416-862-4342

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Lawyers for the Applicant, Deloitte Restructuring Inc.

# **APPENDIX 2**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

MR. JUSTICE DUNPHY

)  
)  
)

FRIDAY, THE 11<sup>TH</sup>

DAY OF JUNE, 2021

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**CLAIMS PROCEDURE ORDER**



**THIS MOTION**, made by the Applicant pursuant to the *Corporations Act*, R.S.O. 1990, c. C.38, as amended (the “**Corporations Act**”) for an order (the “**Claims Procedure Order**”) approving a procedure for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”), was heard this day by way of judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the affidavit of Richard Williams sworn May 31, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, counsel for Resource Productivity & Recovery Authority and those other parties that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service of Katherine Yurkovich dated June 2, 2021, filed.

## INTERPRETATION

1. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) **“Appointment Order”** means the Order of Mr. Justice Dunphy made June 11, 2021 in these Proceedings;
- (b) **“Bar Date”** has the meaning given to it in paragraph 18 hereof;
- (c) **“Bar Date Order”** has the meaning given to it in paragraph 18 hereof;
- (d) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) **“Claim”** means any right of claim of any Person that may be asserted or made in whole or in part against OES, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (international 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 whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or 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 ability of any Person to advance a claim for contribution or indemnity or otherwise against OES with respect to any matter, action, cause or chose

in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof;

- (f) “**Claimant**” means any Person asserting a Claim and includes the transferee or assignee of a Claim, transferred and recognized in accordance with paragraphs 23 and 24 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (g) “**Claims Package**” means the Pre-Populated Proof of Claim, the Proof of Claim form, the Notice to Claimants, the Instruction Letter, and any other documentation the Liquidator may deem appropriate;
- (h) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order, including the Schedules hereto;
- (i) “**Communication**” has the meaning given to it in paragraph 26 hereof;
- (j) “**Corporations Act**” means the *Corporations Act*, R.S.O. 1990, c. C.38, as amended;
- (k) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (l) “**Court Appointment Date**” means June 11, 2021;
- (m) “**Instruction Letter**” means the instruction letter to Claimants, substantially in the form attached as Schedule “B” hereto, regarding the completion of a Proof of Claim by a Claimant and the Claims Procedure described herein;
- (n) “**Known Claimants**” has the meaning given to it in paragraph 10 hereof;
- (o) “**Liquidator**” means Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator of OES;

- (p) **“Liquidator’s Website”** means the case website established by the Liquidator with the following URL: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>
- (q) **“Notice to Claimants”** means the notice for publication by the Liquidator as described in paragraph 12 hereof, in the form attached as Schedule “A”;
- (r) **“Notice of Revision or Disallowance”** means the notice referred to in paragraph 21 hereof, substantially in the form of Schedule “D” hereto, advising a Claimant that the Liquidator, has revised or rejected all or part of such Claimant’s Claim as set out in its Proof of Claim;
- (s) **“Orders”** means any and all orders issued by the Court within these Proceedings, including the Appointment Order;
- (t) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;
- (u) **“Pre-Populated Proof of Claim”** means the proof of claim pre-populated by the Liquidator stating the amount owing, if any, by OES to the Known Claimant based on the books and records of OES;
- (v) **“Proceedings”** means the within proceedings;
- (w) **“Proof of Claim”** means the Proof of Claim referred to in paragraph 16 hereof to be filed by Claimants, substantially in the form attached as Schedule “C”;

(x) **“Proof of Claims Filing Date”** means 5:00 p.m. (Eastern Time) on August 31, 2021; and

(y) **“Proven Claim”** means the amount of a Claim of a Claimant as finally determined in accordance with this Claims Procedure Order.

2. **THIS COURT ORDERS** that all references 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.

3. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

4. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

#### **GENERAL PROVISIONS**

5. **THIS COURT ORDERS** that the Liquidator is hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms, and (ii) to request any further documentation from a Claimant that the Liquidator may reasonably require in order to determine a Claim.

6. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the receipt of a Pre-Populated Proof of Claim by a Claimant, solicitation by the Liquidator of Claims or the filing by any Claimant of any Claims shall not, for that reason only, grant any Person standing in these Proceedings.

7. **THIS COURT ORDERS** that all Claims filed shall be denominated in the original currency of the Claim. Where no currency is indicated, the Claim shall be presumed to be in Canadian Dollars. 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 Court Appointment Date.

#### **LIQUIDATOR'S ROLE**

8. **THIS COURT ORDERS** that the Liquidator, in addition to its prescribed rights, duties, responsibilities and obligations under the Corporations Act and under the Appointment Order, shall administer the Claims Procedure, including the determination of Claims of the Claimants, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order or incidental thereto.

9. **THIS COURT ORDERS** that (i) in carrying out the terms of this Claims Procedure Order, the Liquidator shall have all of the protections given to it by the Corporations Act, the Appointment Order, and this Claims Procedure Order, and as an officer of this Court, including the stay of proceedings in its favour, (ii) the Liquidator shall incur no liability or obligation as a result of the carrying out of the provisions of this Claims Procedure Order, except to the extent that the Liquidator has acted with gross negligence or willful misconduct, (iii) the Liquidator shall be entitled to rely on the books and records of OES and any information provided by OES or its agents, all without independent investigation, and (iv) the Liquidator shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Claimant, except to the extent that the Liquidator has acted with gross negligence or willful misconduct.

#### **NOTICE TO CLAIMANTS AND CLAIMS PACKAGES**

10. **THIS COURT ORDERS** that the Liquidator shall compile a list of known potential Claimants from the books and records of OES (the "**Known Claimants**") and each a "**Known Claimant**") as at the

Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.

11. **THIS COURT ORDERS** that the Liquidator shall send a Claims Package to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES, or by ordinary mail, courier or facsimile to the last known mailing address or facsimile number of the Known Claimant if an email address for such Known Claimant is not known, by no later than June 30, 2021.

12. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on June 30, 2021, the Liquidator shall cause the Notice to Claimants to be published, for at least two (2) Business Days, at an interval of one week, in each of *The Globe and Mail* (National Edition) and *The Toronto Star*.

13. **THIS COURT ORDERS** that the Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted to the Liquidator's Website as soon as reasonably practicable and cause it to remain posted thereon until its discharge as Liquidator of OES.

14. **THIS COURT ORDERS** that upon request by a Claimant for a Claims Package or documents or information relating to the Claims Procedure prior to the Proof of Claims Filing Date, the Liquidator shall forthwith send a Claims Package, direct such Person to the documents posted on the Liquidator's Website, or otherwise respond to the request for information or documents as the Liquidator considers appropriate in the circumstances.

15. **THIS COURT ORDERS** that the form and substance of each of the Notice to Claimants, Proof of Claim, Instruction Letter and Notice of Revision or Disallowance, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Liquidator may, from time to time, make such minor changes to such forms as the Liquidator considers necessary or desirable.

## **PROOFS OF CLAIM TO BE FILED PRIOR TO PROOF OF CLAIMS FILING DATE**

16. **THIS COURT ORDERS** that any Person who (i) disagrees with, or wishes to assert a Claim in addition to the Claim stated in the Pre-Populated Proof of Claim received by such Person, or (ii) wishes to assert a Claim, must deliver to the Liquidator, on or before the Proof of Claims Filing Date, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

17. **THIS COURT ORDERS** that not less than five (5) business days following the Proof of Claims Filing Date, the Liquidator shall send a notice to the Known Claimants who have not filed a Proof of Claim reminding them of the Proof of Claims Filing Date and informing them of the Liquidator's intention to seek a Bar Date Order.

18. **THIS COURT ORDERS** that as soon as practicable following the Proof of Claims Filing Date, and in any case no less than three (3) days following the delivery of the notice referred to in paragraph 17 above, the Liquidator shall bring a motion to the Court, on notice to the Service List and Known Claimants referred to in paragraph 17 above, for an Order (the "**Bar Date Order**") providing, amongst other things, for a date (the "**Bar Date**") after which:

- (a) the Claim of any Person who received a Pre-Populated Proof of Claim in accordance with paragraph 11 and did not return a Proof of Claim by the Bar Date shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished;
- (b) any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim by the Bar Date shall:



- (i) 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 Proceedings in respect of such Claim; and
- (ii) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

#### **ADJUDICATION OF CLAIMS**

19. **THIS COURT ORDERS** that the Liquidator shall review all Proofs of Claim filed in accordance with this Claims Procedure Order, and at any time may:

- (a) request additional information from a Claimant;
- (b) request that a Claimant file a revised Proof of Claim;
- (c) attempt to resolve and settle any issue arising in a Proof of Claim or in respect of a Claim;
- (d) accept (in whole or in part), any Claim and so notify the Claimant in writing; and
- (e) revise or disallow (in whole or in part) any Claim and so notify the Claimant in writing.

20. **THIS COURT ORDERS** that where a Claim has been accepted by the Liquidator in accordance with this Claims Procedure Order, such Claim shall constitute such Claimant's Proven Claim. The acceptance of any Claim or other determination of same in accordance with this Claims Procedure Order, in full or in part, shall not constitute an admission of any fact, thing, liability, or quantum or status of any claim by any Person, save and except in the context of these Proceedings. In these Proceedings, a Claim shall be deemed accepted by the Liquidator (i) if included in a Pre-Populated Proof of Claim, (ii) if,

following the receipt of a Proof of Claim, the Liquidator does not issue a Notice of Revision or Disallowance pursuant to paragraph 21 hereof, or (iii) as resolved in accordance with paragraphs 21 and 22 hereof.

## **RESOLUTION OF CLAIMS**

21. **THIS COURT ORDERS** that as soon as practicable after a Proof of Claim is received by the Liquidator in accordance with this Claims Procedure Order, the Liquidator may attempt to resolve and settle the Claim with the Claimant. If, in the Liquidator's determination, the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.

22. **THIS COURT ORDERS** that any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance, shall bring, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim, a motion to the Court to seek a determination by the Court of the disputed Claim.

## **NOTICE OF TRANSFEREES**

23. **THIS COURT ORDERS** that the Liquidator shall not be obligated to give notice to or otherwise deal with the transferee or assignee of a Claim unless and until actual notice of the transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Liquidator in writing. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to the receipt and acknowledgment by the Liquidator of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which OES may be entitled with respect to such Claim. For greater certainty, a transferee

or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to OES.

24. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Liquidator as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Liquidator shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Liquidator, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

## **SERVICE AND NOTICES**

25. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order and the Proof of Claims Filing Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

26. **THIS COURT ORDERS** that the Liquidator may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, and any letters, notices or other documents (a “**Communication**”) to the Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of OES or

set out in such Claimant's Proof of Claim; provided, however, that if the Liquidator receives notice that the Communication cannot be delivered at the address used by the Liquidator and the Liquidator has an alternative address for such Claimant, the Liquidator shall attempt to deliver the Communication to such alternate address. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) 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.

27. **THIS COURT ORDERS** that any notice or communication (including Proofs of Claim) to be given under this Claims Procedure Order by any Person to the Liquidator shall be in writing in substantially the form provided for in this Claims Procedure Order and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

Deloitte Restructuring Inc.  
Court-appointed Liquidator of Ontario Electronic Stewardship  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

28. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further order of this Court, be effective and 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 Claims Procedure Order.

29. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further order of the Court, the Liquidator shall post such further order on the Liquidator's Website, and such posting shall constitute adequate notice to Claimants of such amended Claims Procedure.

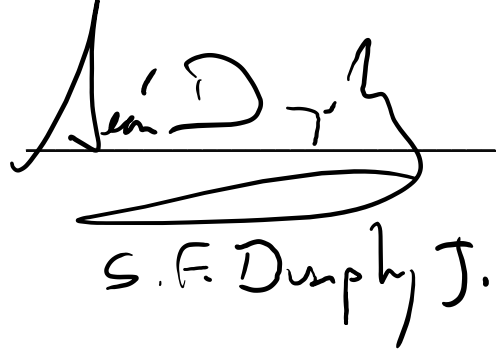
#### **MISCELLANEOUS**

30. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Liquidator may apply to this Court from time to time for directions from this Court with respect to this Claims Procedure Order, or for such further order or orders as it may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

31. **THIS COURT ORDERS** that this Claims Procedure Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

32. **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, or abroad, to give effect to this Claims Procedure Order and to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to OES in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Claims Procedure Order.

33. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Claims Procedure Order and for assistance in carrying out the terms of this Claims Procedure Order.



A handwritten signature, appearing to be "S.F. Dunphy J.", is written over a horizontal line. The signature is in cursive and includes a large, sweeping flourish that extends below the line.

## **SCHEDULE “A”**

### **NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP**

#### **RE: NOTICE OF PROOF OF CLAIMS FILING DATE IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person who wishes to assert a Claim, must deliver to Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “**Liquidator**”), on or before the Proof of Claims Filing Date stated below, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

**Pursuant to the Claims Procedure Order, the Proof of Claims Filing Date is 5:00 p.m. (Eastern Time) on August 31, 2021.** Proofs of Claim must be completed and filed with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) AFTER WHICH ALL CLAIMS THAT HAVE NOT BEEN FILED WITH THE LIQUIDATOR WILL BE FOREVER BARRED AND EXTINGUISHED.**

**PLEASE TAKE NOTICE** that the Liquidator will cause Claims Packages including a Pre-Populated Proof of Claim to be sent to all Known Claimants on or before June 30, 2021. If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert a further Claim, you must complete and file a Proof of Claim form with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) PROVIDING THAT THE CLAIM OF ANY PERSON WHO HAS RECEIVED A PRE-POPULATED PROOF OF CLAIM AND DOES NOT RETURN A PROOF OF CLAIM ON OR BEFORE THE CLAIMS BAR DATE (TO BE ESTABLISHED PURSUANT TO THE BAR DATE ORDER), WILL BE DEEMED TO BE AS SET OUT IN THE PRE-POPULATED PROOF OF CLAIM AND SUCH CLAIMANT WILL BE BARRED FROM DISPUTING OR APPEALING SAME, AND THE BALANCE OF SUCH CLAIM, IF ANY, SHALL BE FOREVER BARRED AND EXTINGUISHED.**

A copy of the Claims Procedure Order and the Claims Package is available at the following website: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

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

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392



## SCHEDULE “B”

### INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE OF ONTARIO ELECTRONIC STEWARDSHIP

#### CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated June 11, 2021 (as such Order may be amended from time to time, the “**Claims Procedure Order**”) Deloitte Restructuring Inc., in its capacity as the Court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship (“**OES**”), has been authorized to conduct a claims procedure (the “**Claims Procedure**”). A copy of the Claims Procedure Order and other public information concerning this proceeding is available on the Liquidator’s website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>.

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 serves to identify and determine the amount of any claims against OES. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

Please direct all forms and inquiries with respect to the Claims Procedure to the Liquidator by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES  
Claims Process  
8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

#### FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against OES and you have not received a Pre-Populated Proof of Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Proof of Claims Filing Date**”). If you do not file a Proof of Claim in respect of such Claim by the Proof of Claims Filing Date, note that as soon as practicable following the Proof of Claims Filing Date the Liquidator shall bring a motion to the Court for an Order setting a final bar date (the “**Bar Date Order**”), after which all claims that have not been filed with the Liquidator shall 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 Proceedings in respect of such Claim and you will be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.

If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert an additional Claim, you must complete and file a Proof of Claim form with the Liquidator. All Proofs of Claim **must be received by the Liquidator before 5:00 p.m. (Toronto Time) on August 31, 2021** (the “**Proof of Claims Filing Date**”). Note that as soon as practicable following the Proof of Claims Filing Date the Liquidator shall bring a motion to the Court for the Bar Date Order providing that the Claim of any person who has received a Pre-Populated Proof of Claim and does not return a Proof of Claim by the claims bar date (to be established pursuant to the Bar Date Order) will be deemed to be as set out in the Pre-

Populated Proof of Claim and such Known Claimant will be barred from disputing or appealing same, and the balance of such Claim, if any, shall be forever barred and extinguished.

#### **ADDITIONAL FORMS**

Additional Proof of Claim forms are available on the Liquidator's website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx> or by contacting the Liquidator.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**SCHEDULE "C"**  
**PROOF OF CLAIM FORM**

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

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**PROOF OF CLAIM**

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**1. PARTICULARS OF CREDITOR**

Full Legal Name of Creditor:

Full Mailing Address of Creditor:

Telephone Number of Creditor:

Facsimile Number of Creditor:

E-mail Address of Creditor:

Attention (Contact Person):

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

Have you acquired this Claim by assignment?

Yes   ☐   No   ☐

(if yes, attach documents evidencing assignment)

Full Legal Name of original creditors(s): \_\_\_\_\_

3. **PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

That I am a Creditor of Ontario Electronic Stewardship (“OES”) / I hold the position of \_\_\_\_\_ of the Creditor;

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

OES was and still is indebted to the Creditor as follows:<sup>1</sup>

Debtor	Claim Amount
Ontario Electronic Stewardship	

4. **PARTICULARS OF CLAIM:**

The particulars of the undersigned’s 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 allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed).*

5. **FILING OF CLAIM**

This Proof of Claim must be returned to, and received by, the Liquidator by **5:00 p.m. (Toronto Time) on the Proof of Claims Filing Date (August 31, 2021)**.

Completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Liquidator at the following address:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

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<sup>1</sup> 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 Court Appointment Date

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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*(signature of creditor 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”  
NOTICE OF REVISION OR DISALLOWANCE**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF**

**ONTARIO ELECTRONIC STEWARDSHIP**

**APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C.  
C.38**

**DELOITTE RESTRUCTURING INC.**

**Applicant**

---

**NOTICE OF REVISION OR DISALLOWANCE**

---

**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) dated June 11, 2021 (the “**Claims Procedure Order**”).

Pursuant to the Claims Procedure Order, Deloitte Restructuring Inc. in its capacity as the court-appointed liquidator (the “**Liquidator**”) of Ontario Electronic Stewardship hereby gives you notice that it has reviewed your 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:

<b>Debtor</b>	<b>Amount of Claim per Proof of Claim</b>	<b>Amount of Claim Allowed per this Notice of Revision or Disallowance</b>
ONTARIO ELECTRONIC STEWARDSHIP	CAD \$	CAD \$

Reasons for Revision or Disallowance

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**PROCEDURE TO APPEAL THIS NOTICE OF REVISION OR DISALLOWANCE**

If you disagree with the amount of your Claim allowed pursuant to this Notice of Revision or Disallowance, you must, **within thirty (30) days** after you have been deemed to have received the Notice of Revision or Disallowance under the Claims Procedure Order, bring a motion in the Proceedings to seek a determination by the Court of the disputed Claim.

If you do not bring a motion for the determination by the Court of the disputed Claim, your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

**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 \_\_\_\_\_, 2021.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**CLAIMS PROCEDURE ORDER**

**GOWLING WLG (CANADA) LLP**

1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Virginie Gauthier (LSO#: 41097D)**

**Tel:** 416-844-5391

**Email:** [virginie.gauthier@gowlingwlg.com](mailto:virginie.gauthier@gowlingwlg.com)

**Kate Yurkovich (LSO#: 80396R)**

**Tel:** 416-862-4342

**Email:** [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

Lawyers for the Applicant, Deloitte Restructuring Inc.



## **APPENDIX 3**

Court File No. [●]

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**AFFIDAVIT**

I, Richard Williams, of Deloitte Restructuring Inc. (“**Deloitte**”), in the Province of Ontario,

MAKE OATH AND SAY:

1. I am a Vice President and Licensed Insolvency Trustee with Deloitte. On February 24, 2021, the members of the board of directors of Ontario Electronic Stewardship (“**OES**”) appointed Deloitte as liquidator (in such capacity, the “**Liquidator**”) of OES, effective April 1, 2021. In connection with Deloitte’s appointment as Liquidator, I have been involved with OES since December 2, 2020, and am generally familiar with OES’ plans for its wind up. As such, I have knowledge of the matters contained in this affidavit and where I have reviewed information given to me by others, I have indicated the sources of that information and I believe the information to be true.
2. Deloitte is applying to this Court for: (i) a wind up and appointment order, substantially in the form attached at Tab 5 of the Applicant’s Application Record, among other things, appointing Deloitte as a court-appointed liquidator with the powers to carry out the wind up of OES under this Court’s supervision; and (ii) a claims procedure order (the “**Proposed**

**Claims Procedure Order**”), substantially in the form attached at Tab 7 of the Applicant’s Application Record, approving a claims procedure for the identification, quantification and resolution of claims of creditors of OES (the “**Proposed Claims Procedure**”).

## **BACKGROUND**

3. OES is an “Industry Funding Organization” (“**IFO**”) previously responsible for managing the waste diversion program for waste electrical and electronic equipment (“**Electronics**”) in Ontario (the “**OES Program**”).
4. OES administered the OES Program through an operating agreement with the Electronic Product Recycling Association (“**EPRA**”), an industry led not-for-profit organization that operates regulated Electronics recycling programs across Canada.
5. During its operation, the OES Program promoted the re-use and refurbishment of waste Electronics and ensured that the resources found in such waste that could not be re-used were processed and recycled in an environmentally responsible manner.
6. As a result of a directive issued by the Minister of the Environment and Climate Change (now known as the Minister of Environment, Conservation and Parks, the “**Minister**”), the OES Program ceased operating on December 31, 2020 and, on February 24, 2021, the members of the board of directors of OES (the “**Board**”) privately appointed Deloitte as Liquidator effective April 1, 2021.
7. The Liquidator believes that it is both appropriate and in the best interests of OES’ stakeholders that OES’ wind up be conducted through an open, Court-supervised process

overseen by an officer of the Court. This process will also provide a forum for resolving contentious matters, should any arise.

8. Further, as part of its mandate, the Liquidator must ensure that all financial obligations of OES are satisfied. For that reason, the Liquidator is also asking this Court for the Proposed Claims Procedure Order.

## **APPLICABLE LEGISLATION**

9. The *Waste Diversion Transition Act, 2016* (the “**Transition Act**”) is the main statute governing OES’ operations and wind up. The Transition Act also serves as a transition between the OES Program and the new program for managing waste Electronics established pursuant to the *Resource Recovery and Circular Economy Act, 2016* (the “**New Act**”).
10. The Transition Act provides that the wind up of an organization such as OES, if so directed by the Minister, must be conducted in accordance with the provisions of the *Corporations Act* (Ontario), as amended by O. Reg. 357/17 under the Transition Act.
11. The *Corporations Act* provides that the identification and determination of any claim against a winding up entity must be conducted in accordance with the process contemplated in the *Assignments and Preferences Act* (Ontario).

## **HISTORY OF MINISTERIAL DIRECTIONS AND WIND UP PLANS**

12. On February 8, 2018, the Minister directed (such direction, together with its addendum, the “**2018 Direction**”) OES to develop a plan to wind up both the OES Program and the stewardship itself. Attached as **Exhibit “A”** is a copy of the 2018 Direction.
13. The 2018 Direction requires OES to submit its proposed wind up plan for approval to the Resource Productivity and Recovery Authority (“**RPRA**”). RPRA was created by the Government of Ontario to oversee IFOs, their programs and their winding up. The 2018 Direction established June 30, 2020, as the OES Program’s wind up date (the “**June 30 Wind Up Date**”).
14. OES submitted its first proposed wind up plan (the “**First Proposed Plan**”) to RPRA for approval in November of 2018. Attached as **Exhibit “B”** is a copy of the First Proposed Plan.
15. Following the preparation of the First Proposed Plan, OES was successful in a tax appeal against Canada Revenue Agency (the “**CRA**”) and received an approximate \$60.8 million tax refund from CRA (the “**Tax Refund**”).
16. In February 2019, OES submitted a revised wind up plan (the “**Second Proposed Plan**”, together with the First Proposed Plan, the “**Proposed Plans**”) to RPRA for approval to update estimates of OES’ operating surplus funds (“**Surplus Funds**”), resulting largely from the Tax Refund. Attached as **Exhibit “C”** is a comparison document showing the changes between the First Proposed Plan and the Second Proposed Plan.
17. The Proposed Plans stipulated that any Surplus Funds remaining at the end of the OES Program would be disbursed to businesses that bring Electronics into Ontario or

manufacture Electronics for sale in Ontario (“**Stewards**”) since, during the operation of the OES Program, Stewards were charged fees (commonly known as environmental handling fees) (“**Steward Fees**”) that funded the OES Program.

18. On April 2, 2019, the Minister directed RPRA to consult with stakeholders on options to ensure that the Surplus Funds would be used for the benefit of consumers (the “**April 2019 Direction**”). Attached as **Exhibit “D”** is a copy of the April 2019 Direction.
19. RPRA engaged in consultations with stakeholders in June of 2019, presenting them with three options for the Surplus Funds: (i) the creation of a consumer rebate program; (ii) an extension of the June 30 Wind Up Date coupled with a suspension of fees payable by Stewards (the “**Fee Suspension**”); or (iii) a credit that consumers would receive at the point-of-waste or product return.
20. Following those consultations, (i) the Minister issued further directions (the “**July 2019 Directions**”) extending both the wind up date of the OES Program and the Fee Suspension to December 31, 2020; (ii) OES made further revisions to the Second Proposed Plan consistent with the Minister’s direction and submitted the further revised plan to RPRA for approval; and (iii) subject to certain conditions, RPRA approved the further revised wind up plan (the “**Final Wind Up Plan**”). Attached as **Exhibits “E”** and “**F**”, respectively, are copies of the July 2019 Directions and a comparison document showing the changes between the Second Proposed Plan and the Final Wind Up Plan, including the conditions attached by RPRA.

21. In contrast to the Proposed Plans, the Final Wind Up Plan requires that any Surplus Funds held by OES following its wind up be transferred to RPRA to offset registry costs incurred pursuant to the New Act.

#### **TERMINATION OF THE OES PROGRAM AND APPOINTMENT OF LIQUIDATOR**

22. The OES Program ended on December 31, 2020. Since that date, OES has not engaged in any further waste diversion programs and has continued to address its legal, financial and operational obligations.
23. On December 1, 2020, the Board initiated a request for proposal process (the “**RFP**”) for a qualified firm to act as Liquidator of OES and wind up the OES Program. Attached as **Exhibit “G”** is a copy of the RFP. As a result of the RFP, the Board selected Deloitte to act as Liquidator.
24. On February 24, 2021, the Board resolved to engage Deloitte as Liquidator effective April 1, 2021, to complete a formal winding up and dissolution of OES. Attached as **Exhibit “H”** is a certified copy of an extract of the minutes of the February 24, 2021 general meeting of the Board.
25. Deloitte’s appointment as Liquidator was approved by RPRA pursuant to O. Reg 357/17.

#### **MANDATE OF THE LIQUIDATOR PURSUANT TO THE RFP PROCESS**

26. The mandate granted to the Liquidator pursuant to the RFP process is broad and includes all obligations set forth in the Transition Act and the Final Wind Up Plan that are necessary for

the winding up of the business and affairs of OES and the distribution of its assets and property such as:

- (a) taking possession of, and reviewing, the books and records of OES, and the contracts to which it is a party, to ascertain OES' assets, liabilities and obligations;
- (b) taking possession of, and exercising control over, OES' property and any and all proceeds, receipts and disbursements arising out of, or from, OES' property;
- (c) receiving and collecting all monies and accounts owing to OES and exercising all necessary remedies of OES in collecting such monies including enforcing security, and initiating and defending proceedings as necessary;
- (d) reporting to, and meeting with, affected persons including Stewards, service providers, government officials and the Minister;
- (e) providing regular reports to RPRA regarding the status of the implementation of the Final Wind Up Plan;
- (f) preparing and submitting a final accounting to RPRA of all receipts and disbursements made by the Liquidator in carrying out its mandate;
- (g) preparing a final report to RPRA and the Minister regarding the implementation of the Final Wind Up Plan; and
- (h) filing all required HST and other tax returns and obtaining all necessary clearances from the CRA, and winding up the corporate entity.



27. In my experience, the mandate of the Liquidator is similar in scope to the powers and authority granted to a court-appointed receiver.

## **LIQUIDATOR'S ACTIVITIES SINCE ITS APPOINTMENT**

28. Since its appointment, the Liquidator has worked with EPRA and RPRA to familiarize itself with the applicable legislation, the Final Wind Up Plan, and the affairs of OES generally, including, the financial and operational obligations of OES.
29. In doing so, the Liquidator identified a potential conflict or ambiguity between the terms of the Final Wind Up Plan and rules (the “**Steward Rules**”) related to Steward Fees implemented by OES pursuant to the Transition Act. Attached as **Exhibit “I”** is a copy of the currently applicable Steward Rules.
30. The relevant provisions of the Steward Rules and the Transition Act are as follows:
- (a) *Steward Rules*: Rule 4(3) requires that, where a Steward has paid more fees in a fiscal year than is required (“**Excess Fees**”), OES will either credit or pay the Excess Fees to the Steward; and
  - (b) *Transition Act*: Pursuant to section 35(5) of the Transition Act, OES is permitted to distribute remaining Surplus Funds to RPRA, however such distribution may only occur after all liabilities of OES in respect of the OES Program have been satisfied.
31. The Liquidator identified that the obligation to return Excess Fees pursuant to the Steward Rules likely constituted a financial liability of OES such that Surplus Funds could not be

transferred to RPRA under the Final Wind Up Plan until such financial liability was addressed.

32. To address this conflict or ambiguity, and ensure consistency with the Final Wind Up Plan, the Liquidator proposed to amend the Steward Rules to include a new provision allowing for the distribution of Surplus Funds to RPRA, whether or not comprised of any amounts contemplated under Rule 4(3) of the Steward Rules (the “**Proposed Steward Rules Amendment**”).
33. The Transition Act permits OES to amend Steward Rules after consultation with the Stewards.
34. On May 10, 2021, in accordance with the consultation requirements under the Transition Act, the Liquidator, on behalf of OES, distributed a notice of consultation to Stewards (the “**Notice of Consultation**”) together with a presentation providing an overview of the Proposed Steward Rules Amendment. The Notice of Consultation provided details on the Proposed Steward Rules Amendment, notified stakeholders of consultations, including webinars to be held on May 20 and 21, 2021, and invited stakeholders to submit questions or comments in writing in advance of the webinars.
35. On May 14, 2021, an email (the “**May 14 Email**”) was sent to stakeholders, advising recipients that an updated presentation (the “**Updated Presentation**”) had been posted to the Liquidator’s case website, and extending the deadline to submit questions and comments until May 18, 2021. Attached as **Exhibits “J”, “K” and “L”**, respectively, are copies of the Notice of Consultation, May 14 Email and Updated Presentation.

36. The Liquidator did not receive any objections with respect to the Proposed Steward Rules Amendment. However, Electronics Product Stewardship Canada, an organization representing the vast majority of Stewards that participated in the OES Program, requested that it continue to be consulted with respect to the distribution of Surplus Funds. Attached as **Exhibit “M”** is a summary of the questions and comments received by the Liquidator during the consultation process.

### **NEED FOR COURT-SUPERVISED PROCESS AND COURT APPOINTMENT OF DELOITTE AS LIQUIDATOR**

37. Deloitte worked with OES, EPRA and RPRA in advance of this application to establish its mandate, run a stakeholder consultation process and advise on the best approach to various liquidation issues based on its extensive experience acting as a court-appointed officer.
38. Based on its review of the books and records of OES, the Liquidator has identified that OES has numerous stakeholders ranging from Stewards to service providers in relation to the collection, transportation and processing of waste Electronics.
39. The assets of OES are material and may significantly increase depending on the outcome of certain tax litigation that the Liquidator is considering.
40. In these circumstances, I believe that a court-supervised winding up of OES and the related court appointment of Deloitte as liquidator of OES is just and equitable.
41. A court-supervised process will assist the Liquidator in carrying out its mandate, ensure that the wind up process is open and fair, and if required, will provide an avenue to resolve issues that may arise during the wind up.

42. Additionally, I believe that a court-supervised process and the court-appointment of Deloitte as liquidator is in the interests of the stakeholders and creditors of OES, as it will ensure appropriate public disclosure of information to interested parties and an effective mechanism to complete the wind up of OES.

## **PROPOSED CLAIM PROCEDURE<sup>1</sup>**

43. Salient features and a timeline of the Proposed Claims Procedure are contained in the below table:

<b><i>Proof of Claims to Known Claimants</i></b>	
<b>Following the Court Appointment Date</b>	Liquidator shall compile a list of Known Claimants as at the Court Appointment Date, showing for each Known Claimant, their name, address, email address (where available) and amount owed pursuant to OES' books and records.
<b><i>Notification Process</i></b>	
<b>No later than June 30, 2021</b>	Liquidator shall send a Claims Package (which, for greater certainty, shall include a Pre-Populated Proof of Claim) to each Known Claimant by email to the last known email address of the Known Claimant set out in the books and records of OES.
<b>No later than 5:00 pm on June 30, 2021</b>	Liquidator shall cause the Notice to Claimants to be published, for at least one (1) Business Day, in <i>The Globe and Mail</i> (National Edition).
<b>Following Publication in <i>The Globe and Mail</i></b>	Liquidator shall cause the Notice to Claimants, the Claims Package and the Claims Procedure Order to be posted on the Liquidator's Website
<b><i>Claims Bar Date</i></b>	
<b>August 31, 2021 (the "Claims Bar Date")</b>	Any Person who (i) disagrees with the Claim stated in the Pre-Populated Proof of Claim, or (ii) wishes to assert a Claim, must deliver to the Liquidator, on or before the Claims Bar Date, a completed Proof of Claim, including all relevant supporting documentation.

<sup>1</sup> Any capitalized terms used but not defined in this section of the Affidavit shall have the meanings given to them in the proposed Claims Procedure Order attached at Tab 7 of the Applicant's Application Record.

<b>Impact of the Claims Bar Date</b>	<p>If any Person who received a Pre-Populated Proof of Claim does not return a Proof of Claim in the manner noted above by the Claims Bar Date, such Claim shall be deemed to be as set out in the Pre-Populated Proof of Claim and the Claimant will be barred from disputing or appealing same, and the balance of such Claimant's Claim, if any, shall be forever barred and extinguished.</p> <p>Any Person who has not received a Pre-Populated Proof of Claim and has not filed a Proof of Claim with the Liquidator pursuant to the Claims Procedure Order by the Claims Bar Date shall:</p> <p>(a) 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 Proceedings in respect of such Claim; and</p> <p>(b) be forever barred, estopped and enjoined from asserting or enforcing such Claim against OES and OES shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Liquidator.</p>
<b><i>Adjudication and Resolution of Claims</i></b>	
<b>Following the Liquidator's receipt of Proofs of Claim</b>	As soon as practicable after a Proof of Claim is received by the Liquidator, the Liquidator will attempt to resolve and settle the Claim with the Claimant. If the Liquidator determines, in its sole discretion, acting reasonably, that the Claim cannot be resolved or settled, the Liquidator shall issue a Notice of Revision or Disallowance in respect of such Claim.
<b>30 Days Following Receipt of a Notice of Revision or Disallowance</b>	Any Claimant who wishes to dispute a Claim as stated in a Notice of Revision or Disallowance shall bring a motion to the Court to seek a determination by the Court of the disputed Claim, within 30 days of the deemed receipt of the Notice of Revision or Disallowance in respect of such Claim.

## **NEED FOR THE PROPOSED CLAIMS PROCEDURE**

44. I believe that the Proposed Claims Procedure in the Proposed Claims Procedure Order is fair and reasonable in the circumstances.

45. I am advised by Katherine Yurkovich of Gowling WLG (Canada) LLP, counsel to the Liquidator, that the Proposed Claims Procedure is consistent with the proof of claims provisions of the *Assignments and Preferences Act*, which are incorporated by reference into the *Corporations Act*.
46. I believe that the Proposed Claims Procedure will provide Known Claimants and potential unknown Claimants with adequate notice of the Proposed Claims Procedure, and an adequate opportunity to prove their Claims prior to the Claims Bar Date.
47. Additionally, I believe that the adjudication process provided in the Proposed Claims Procedure Order will facilitate the fair and expeditious resolution of any disputes in the circumstance that they may arise.

## **CONCLUSION**

48. This affidavit is made in support of an application for (i) a wind up and appointment order, among other things, appointing Deloitte as a court-appointed liquidator with the powers to carry out the wind up of OES under this Court's supervision; and (ii) a claims procedure order, among other things, approving the Proposed Claims Procure for the identification, quantification and resolution of claims of creditors of OES, and for no other, or improper, purpose.

SWORN BEFORE ME over videoconference on this 31<sup>st</sup> day of May, 2021. The affiant was located in the City of Toronto, in the Province of Ontario and the Commissioner was located in the city of Toronto, in the Province of Ontario. This affidavit was commissioned remotely as a result of the COVID-19 Pandemic.

DocuSigned by:

*Richard Williams*

06D0C58F0EAF4CC...  
Richard Williams

DocuSigned by:

*Katherine Yurkovich*

BF160460C72B4F9...

A Commissioner for Taking Affidavits

Katherine Yurkovich  
LSO# 80396R

Court File No:

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O.  
1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

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

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF RICHARD WILLIAMS**  
**(Sworn May 31, 2021)**

**GOWLING WLG (CANADA) LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Virginie Gauthier (LSO#: 41097D)**  
**Tel:** 416-844-5391  
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**Kate Yurkovich (LSO#: 80396R)**  
**Tel:** 416-862-4342  
**Email:** [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

Lawyers for the Applicant, Deloitte Restructuring Inc.



# **APPENDIX 4**

## NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

**RE: NOTICE OF LIQUIDATOR'S MOTION TO THE COURT SEEKING A BAR DATE ORDER IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that pursuant to the Claims Procedure Order, all Known Claimants who wished to assert a claim other than as stated in the Claims Package sent to them by Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “**Liquidator**”), were required to file a Proof of Claim with the Liquidator by the **Proof of Claims Filing Date being 5:00 p.m. (Eastern Time) on August 31, 2021.**

**PLEASE TAKE NOTICE** that the Liquidator intends to bring a motion to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on **September 30, 2021 at 9:30 A.M.** for an order setting a final bar date (the “**Bar Date Order**”) providing that the Claim of any Known Claimant who has received a Pre-Populated Proof of Claim and has not returned a Proof of Claim on or before **October 15, 2021** (the Claims “**Bar Date**”), will be deemed to be as set out in the Pre-Populated Proof of Claim, that such Known Claimant will be barred from disputing or appealing same, and the balance of such Claim, if any, shall be forever barred and extinguished.

**PLEASE TAKE NOTICE** that any Person who still wishes to assert a Claim, must deliver to the Liquidator, on or before the Bar Date, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

A copy of the Claims Procedure Order and the Claims Package is available at the following website:  
<https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

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

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200

Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT

Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)

Phone: 416-607-1392

# **APPENDIX 5**

# Questions remain over Liberals’ plan as CRB winds down

Income-support programs created over the past 15 months could be used to design fixes to deficiencies in EI system, economists say

PATRICK BRETHOUR

TAX AND SPEND

The Canada Recovery Benefit starts to wind down next month, with a reduction in benefits a first step toward the COVID-19 pandemic income-support program vanishing completely by the fall.

The federal Liberals have yet to spell out what will happen in the long term, beyond promising a two-year consultation period on what permanent changes are needed to employment insurance. But economists say the income-support programs constructed on the fly over the past 15 months could be used to design fixes to many long-standing deficiencies in Canada’s EI system.

The CRB, introduced last fall to support self-employed workers and others who did not qualify for regular EI payments, is better attuned to the needs of the modern economy, and does a better job in creating a path back to sustained full-time employment, those economists say.

“The way the CRB is designed, it’s very good,” says Stéphanie Lluís, an economics professor at the University of Waterloo.

In a recent study published by the Institute for Research on Public Policy, Prof. Lluís and her two co-authors, IRPP research director Colin Busby and University of Michigan Ann Arbor professor Brian P. McCall, concluded that the current structure of EI – which claws back 50 per cent of earnings from a job starting with the very first dollar of wages – provides little incentive for claimants to take part-time or casual work while still receiving benefits.

A better structure, they say, is



A recent study concluded that the current structure of EI – which takes back 50 per cent of earnings from a job starting with the very first dollar of wages – doesn’t provide much incentive for claimants to take part-time or casual work while receiving benefits. YADER GUZMAN/THE GLOBE AND MAIL

one that allows claimants to earn some wages below a threshold without any reduction in benefits, and only then introduces a clawback at higher levels, but still allows individuals to add to their income through working.

In real life, the federal government has done just that with the CRB, which takes a much different approach than the EI system. Under EI, claimants lose 50 cents for every dollar they earn; once their earnings equal 90 per cent of their benefit, the clawback increases to 100 per cent. Every extra dollar of earnings is simply transferred to the government, eliminating any economic incentive for further work.

Pilot projects from 2005 to 2012 exempted some earnings, but then reduced benefits dollar for dollar beyond that point. That approach encouraged claimants to work, but only up to the point the clawback kicked in.

The CRB, designed on the fly during the pandemic, works much differently – and looks a lot

like the system that Prof. Lluís and her colleagues recommend. Under the CRB’s rules, claimants can earn up to \$38,000 in a tax year before benefits are reduced at all. At that point, there’s a 50-per-cent clawback, the same rate as the one for EI claimants. But for CRB recipients, that rate does not rise to 100 per cent, meaning there is still an economic incentive to continue working while receiving benefits.

The IRPP study suggests a clawback rate of 40 per cent, but Prof. Lluís said there is nothing magic about that number. An optimal rate could be higher or lower, and would depend on further research, she said, adding that better data are also needed on how EI claimants respond to incentives to work while receiving benefits.

The timing of the clawback is another way the CRB is better than EI, Prof. Lluís says. Under EI, the clawback is calculated on a weekly basis, discouraging recipients from accepting full-time work lasting a short time. Not so under the CRB: Clawback calcula-

tions are done on an annual basis. So, a worker offered a short-term contract has a much stronger economic incentive to accept a job offer under the CRB’s rules.

The broader reach of the CRB is another advantage compared with EI, says David Macdonald, senior economist with the Canadian Centre for Policy Alternatives. Part-time and self-employed workers are more easily able to qualify for benefits.

Another pandemic-spurred innovation worth keeping, he says, is the minimum payment levels established. Prepandemic rules for EI set benefits at 55 per cent of a recipient’s average insurable weekly earnings. The CRB pays a fixed weekly amount of \$500, or \$450 after a withholding tax is deducted. EI now has a \$500 minimum, too, and recipients can be paid more if their insurable earnings are high enough.

A minimum weekly payment helps out lower-paid workers, particularly part-timers, Mr. Macdonald said. But Prof. Lluís and

other economists have said those minimum payments could become a disincentive for claimants to return to low-paid work.

However, the government is moving to reduce CRB payments after July 17, with weekly amounts for new claims falling to \$300. The CRB is scheduled to end in late September, although Ottawa has allowed for the extension of the program until as late as Nov. 20, if public-health considerations require it. And the government has extended income supports and other programs shortly before their expiry dates several times during the pandemic.

Maria Lily Shaw, an economist at the Montreal Economic Institute, said Ottawa’s decision during the pandemic to reduce the regional disparities in qualifying standards for EI benefits was a positive move, and should be made permanent. Ms. Shaw said a nationwide standard would make EI harder to access in the Atlantic provinces, and discourage seasonal workers from using it as a permanent source of income. “You have to break the dependence that’s been created,” she said.

But Ottawa did not make it harder for workers in areas of high unemployment to qualify; it made it easier for claimants elsewhere.

So far, the government has proposed just limited changes, most notably the extension to September, 2022, of the uniform national standard for qualifying for EI payments. That will make it easier for part-time workers, for instance, to access benefits.

Broader reforms will take much longer, with the Liberals saying they plan to conduct “targeted consultations” over two years to examine systemic gaps such as income support for self-employed and gig workers.

Any permanent change to the structure of EI will have to wait on the outcome of those consultations.

Tax and Spend examines the intricacies and oddities of taxation and government spending.

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### LEGALS

#### NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

##### RE: NOTICE OF PROOF OF CLAIMS FILING DATE IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“OES”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person who wishes to assert a Claim, must deliver to Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “**Liquidator**”), on or before the Proof of Claims Filing Date stated below, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

**Pursuant to the Claims Procedure Order, the Proof of Claims Filing Date is 5:00 p.m. (Eastern Time) on August 31, 2021.** Proofs of Claim must be completed and filed with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) AFTER WHICH ALL CLAIMS THAT HAVE NOT BEEN FILED WITH THE LIQUIDATOR WILL BE FOREVER BARRED AND EXTINGUISHED.**

**PLEASE TAKE NOTICE** that the Liquidator will cause Claims Packages including a Pre-Populated Proof of Claim to be sent to all Known Claimants on or before June 30, 2021. If you have received a Pre-Populated Proof of Claim and you (i) disagree with the Claim as stated in the Pre-Populated Proof of Claim, or (ii) wish to assert a further Claim, you must complete and file a Proof of Claim form with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) PROVIDING THAT THE CLAIM OF ANY PERSON WHO HAS RECEIVED A PRE-POPULATED PROOF OF CLAIM AND DOES NOT RETURN A PROOF OF CLAIM ON OR BEFORE THE CLAIMS BAR DATE (TO BE ESTABLISHED PURSUANT TO THE BAR DATE ORDER), WILL BE DEEMED TO BE AS SET OUT IN THE PRE-POPULATED PROOF OF CLAIM AND SUCH CLAIMANT WILL BE BARRED FROM DISPUTING OR APPEALING SAME, AND THE BALANCE OF SUCH CLAIM, IF ANY, SHALL BE FOREVER BARRED AND EXTINGUISHED.**

A copy of the Claims Procedure Order and the Claims Package is available at the following website: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

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

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

## Former CDIC head Routledge to become banking regulator’s next superintendent

JAMES BRADSHAW  
BANKING REPORTER

The federal government has named Peter Routledge as the head of Canada’s banking regulator, choosing a former financial analyst and federal policy adviser with a keen understanding of the financial system’s intricacies who also has recent experience running a federal agency.

Mr. Routledge will take the helm of the Office of the Superintendent of Financial Institutions (OSFI) for a seven-year term as superintendent on June 29. He moves from his current post as chief executive of the Canada Deposit Insurance Corp., after a stint at the federal Finance Department and a Bay Street career analyzing and rating large Canadian banks and other institutions.

He succeeds Jeremy Rudin, who has led the regulator since 2014 and will step down when his term ends on Monday.

Mr. Routledge possesses a wonkish familiarity with the inner workings of the capital and liquidity rules that form the backbone of regulation for Canada’s financial sector. One of his first big decisions will be when to lift temporary restrictions on dividend payouts and share buybacks implemented in response to the COVID-19 pandemic that have left banks flush with extra capital.

For now he said he favours the position adopted by Mr. Rudin, that “it’s better to err on the side of keeping these restrictions on a bit too long than unwinding them a bit early.”

He also assumes his new role at a time when OSFI has placed added emphasis on non-financial risks that are gaining prominence, from climate change and cybersecurity to issues of culture and conduct inside banks.

“I’m inheriting an organization that’s performed exceptionally well through a once-in-a-century pandemic. I think the financial sector’s resilience shone through,” Mr. Routledge said in an interview. “Good thing we have that resilience, because we face a risk environment in front of us that will be filled with challenges.”

He became CEO of CDIC in 2018, where he reorganized the

deposit insurer’s staff and structure while working to raise its profile. Before that, Mr. Routledge served as a senior adviser in the Department of Finance, focusing on policy issues that included financial stability, housing markets and competition in financial services.

That followed a career as a bond rater and analyst, first covering Canadian financial institutions for ratings agency Moody’s Canada, and then as an equity analyst at National Bank Financial Inc., where he was managing director of research.

“He has distinguished himself in both the public and private sectors and I know his leadership and eye for innovation will be of immense value, particularly as we navigate the end of the COVID crisis and Canada’s economic recovery,” said Chrystia Freeland, Deputy Prime Minister and federal Finance Minister, in a statement announcing Mr. Routledge’s appointment on Thursday.

As an analyst, Peter Routledge routinely sounded warnings about the risks of high household debt, and he inherits a hot-button file as those risks have risen in recent years, driven by low interest rates and hot housing markets.

In his past roles, Mr. Routledge relished the down-in-the-weeds details of the banking and life insurance sectors, and developed instincts to look for emerging risks. Colleagues say he is a steady, even stoic presence.

“He has a sharp policy mind and strong leadership skills,” said Carolyn Rogers, Secretary-General of the Basel Committee on Banking Supervision, who worked with Mr. Routledge when she was a senior official at OSFI.

As an analyst, Mr. Routledge routinely sounded warnings about the risks of high household debt, and he inherits a hot-button file as those risks have risen in recent years, driven by low

interest rates and hot housing markets. OSFI has toughened underwriting standards for mortgage lenders and twice tightened a stress test for borrowers since 2018, while federal policy makers have made further moves to cool housing price increases.

Mr. Rudin said he thinks, “so far, what we’ve done in the area of mortgage underwriting has been effective.” But he acknowledged initiatives so far “have not solved all of Canada’s housing-related problems.”

With housing markets remaining hot and prices rising quickly, Mr. Routledge said he favours a “persistent, gradual approach” to regulation to ensure the system can “weather the inevitable volatility.”

His predecessor, Mr. Rudin, arrived at OSFI from the federal Finance Department at a time when regulators were building a new capital regime to make banks more resilient after the global financial crisis of 2008-09. Those efforts compelled banks to build much larger reserves of capital and liquidity, and have helped them stay resilient through the pandemic as their strength has been severely tested.

At the onset of the crisis last year, “we were out there saying, ‘You know, Canadians have a lot of things to worry about with this pandemic. One of them is not the stability of the Canadian financial system,’” Mr. Rudin said in an interview this week. “I never pretended that we at OSFI knew how this pandemic was going to play out. But nonetheless, the financial system was ready because it had these broad, adaptable, resilient features.”

As those reforms enter their final stages, capital and liquidity are still the “touchstones” of OSFI’s approach to preparing the financial system for the next shock, Mr. Rudin said. But the regulator’s focus has started to shift. OSFI is in the midst of consultations on new risks from technology and climate change, and has built up internal groups focused on those topics, as well as culture and conduct.

“What we should return our attention to is thinking about resilience in the context of these newer risks that are difficult to quantify, difficult to measure,” Mr. Routledge said.



# U.S. labour market recovery gaining steam

Economy experiencing boom in demand, but worker shortage is an obstacle, data show

LUCIA MUTIKANI WASHINGTON

The number of Americans filing new claims for unemployment benefits fell more than expected last week, while layoffs plunged to a 21-year low in June, suggesting the labour market recovery from the COVID-19 pandemic was gaining traction.

But a shortage of willing workers is hampering hiring, with other data on Thursday showing a measure of employment at factories contracting in June for the first time in seven months. Manufacturers said they were experiencing “difficulty in hiring and retaining direct labour,” the Institute for Supply Management (ISM) said in its survey of national factory activity, noting that these challenges “across the entire value chain continue to be the major obstacles to increasing growth.”

One respondent in primary metals said “lack of labour is killing us.”

The data were released ahead of Friday’s closely watched employment report for June, which according to a Reuters survey of economists will likely show non-farm payrolls increasing by 700,000 jobs last month after rising by 559,000 in May. The unemployment rate is forecast to tick down to 5.7 per cent from 5.8 per cent.

The economy is experiencing a boom in demand after a reopening made possible by vaccinations against the coronavirus, with more than 150 million Americans fully immunized.

“America’s back to work and an important milestone was reached where new claims are back below the 400,000 barrier after a hiccup at the start of June,” said Chris Rupkey, chief economist at FWDBONDS in New York. “Summer is always the strongest season for hiring each year, and this



Lack of affordable child care and fears of contracting COVID-19 are factors that have been blamed for keeping workers, mostly women, at home. OCTAVIO JONES/REUTERS

year is no exception.”

Initial claims for state unemployment benefits dropped 51,000 to a seasonally adjusted 364,000 for the week ended June 26, the Labour Department said. That was the lowest number since March, 2020, when mandatory shutdowns of non-essential businesses were enforced to slow the first wave of COVID-19 infections.

The improvement in claims had appeared to stall in mid-June. Though claims remain above the 200,000-250,000 range that is viewed as consistent with a healthy labour market, they have tumbled from a record 6.149 million in early April, 2020.

Economists polled by Reuters had forecast 390,000 applications for the latest week. There was a big decline in filings in Pennsylvania, which reversed

the prior week’s surge. The state last month upgraded its filing system, and the transition could be causing volatility in the data. There were also large drops in claims in California, Kentucky and Texas.

The claims data could become noisy in the weeks ahead as 25 states with mostly Republican governors pull out of federal government-funded unemployment programs, including a US\$300 weekly cheque, which businesses complained were encouraging the jobless to stay at home. The early termination began on June 5 and will run through July 31, when Louisiana, the only one of those states with a Democratic governor, ends the weekly cheque.

For the rest of the country, these benefits will lapse on Sept. 6. There is no evidence so far of a

surge in job searches in the 20 states that have already ended the federal benefits.

A survey this week by job search engine Indeed found that while the vast majority of the unemployed indicated they would like to start looking for work in the next three months, many did not express a sense of urgency. But rising vaccinations, dwindling savings and the opening of schools in the fall will be key to pulling them back into the labour force.

The claims report showed the number of people continuing to receive benefits after an initial week of aid rose \$6,000 to 3,469 million during the week ended June 19. There were 14.7 million people receiving benefits under all programs in mid-June, slightly down from 14.8 million early in the month.

Stocks on Wall Street were trading mostly higher. The dollar edged up against a basket of currencies. U.S. Treasury prices fell.

In a separate report on Thursday, ISM said its index of national factory activity slipped to 60.6 last month from 61.2 in May. A reading above 50 indicates expansion in manufacturing, which accounts for 11.9 per cent of the U.S. economy.

A measure of factory employment contracted for the first time since November. Companies reported hiring or attempting to hire. A significant number reported “employee turnover due to wage dynamics in the markets,” ISM’s Timothy Fiore said.

“It appears that companies are paying up to steal workers from other firms,” said Conrad DeQuadros, senior economic adviser at Brea Capital in New York.

Lack of affordable child care and fears of contracting the coronavirus have also been blamed for keeping workers, mostly women, at home. There were a record 9.3 million job openings at the end of April and 9.3 million people were officially unemployed in May.

A third report from global outplacement firm Challenger, Gray & Christmas showed job cuts announced by U.S.-based employers tumbled 16.7 per cent to 20,476 in June, the lowest level since June, 2000. Layoffs plummeted 88 per cent compared with June, 2020.

There were 67,975 job cuts in the second quarter, the fewest since the April-June period in 1997. In the first half of this year, layoffs dropped 87 per cent to 212,661, the lowest total for the January-June period since 1995.

“We’re seeing the rubber band snap back,” said Andrew Challenger, senior vice-president at Challenger, Gray & Christmas. “Companies are holding on tight to their workers during a time of record job openings and very high job-seeker confidence. We haven’t seen job cuts this low since the dot-com boom.”

REUTERS

## DIY divorces driving up calls to lawyers to ‘repair’ template agreements

DANIELLE EDWARDS  
HALIFAX

Of all the cases Brian Galbraith has worked on over the years, one that still sticks with him involves a client who divorced his wife using a document they completed themselves.

The owner of Ontario-based Galbraith Family Law said the “do-it-yourself divorce” agreement was favourable to his client. However, when it was challenged by his client’s ex-wife a few years later, a judge ruled the documents “weren’t worth the paper they were printed on.”

“He tried to save a few dollars at the front end by doing it himself and ended up costing himself a lot,” Mr. Galbraith said.

Experts in family law say that as anecdotal evidence suggests a spike in divorces amid the COVID-19 pandemic, the complex nature of the process means it’s often worth hiring proper legal representation at the start in order to prevent a costly, drawn-out affair.

DIY options such as Untie the Knot offer couples access to an uncontested divorce “without the high cost of a lawyer.” For \$899 (or \$499 if you file your own documents) the service claims to guarantee 100-per-cent court approval.

According to Diana Isaac, a partner at Toronto-based family law firm Shulman & Partners, the issue isn’t so much signing a template divorce agreement as it is what could come up in the aftermath.

The firm has seen a spike in interest during the pandemic, she said. From June, 2019, to June, 2020, Shulman & Partners reported a 19-per-cent jump in new clients, including people looking to challenge a DIY divorce.

“These are usually issues that have to go to a trial and going to a trial is very, very expensive,” Ms. Isaac said in an interview. “At times, it could cost six figures.”

Mr. Galbraith said his firm has also reported an increase in clients – numbers are up 30 per cent since last year.

And like Ms. Isaac, Mr. Galbraith said the firm has been doing more “repairing” as well.

“My guess would be that doing repairs to an agreement that was done improperly would be many times more expensive than doing it properly the first time,” he said.

Along with having to pour more money into the divorce, Ms. Isaac spoke about the heightened emotional toll that revisiting divorce settlements can have on clients.

“I look at these people and say, ‘Well, had

you come to us in the first instance, it would have been a lot more cost effective,” and there’s no assurance that you’ll be successful in setting it aside or not.”

In general, most cases the firm sees concerning DIY divorces involve clauses that may have been excluded from the initial agreements, such as settlements on property, spousal support obligations and child care, Ms. Isaac said.

Challenging a divorce agreement starts with a cost-benefit analysis, she said, and if the benefits don’t outweigh the time, effort and funds required to take the matter to court, clients may find themselves stuck with a bad deal.

“You don’t want to pay \$10,000 [just] to get \$11,000,” she said.

Lawyers also need to consider the unique qualities of each case, including figuring out whether one of the parties in the divorce was under duress or if both parties were fully aware of the other’s assets at the time the divorce was finalized.

“No two cases are alike. The area of family law is so factually contingent, so a lot of this is looking at the parties’ circumstances, the family dynamics and tailoring a resolution,” she said.

The increase in DIY divorces may be connected to an overall increase in divorce rates during the pandemic, said Rachel Margolis, a professor at the University of Western Ontario.

Prof. Margolis, who studies how family dynamics shape population change over time, said in an interview that while there aren’t recent numbers on divorce rates in Canada, she expects there could be an increase in separations in the coming years based on data from previous economic recessions.

“During recessions, generally divorce declines because people don’t have the money to get divorced,” Prof. Margolis said.

“During the pandemic I think for a lot of [people], there’s been a lot of sort of reorientation of what people value.”

“My general sense is that the pandemic and everyone being at home will increase the speed of divorces that were going to happen anyway,” Prof. Margolis added.

Both Mr. Galbraith and Ms. Isaac said they recommend couples seek legal advice from experts if they are planning to end their marriage and avoid templates and other DIY services.

“Nobody wants to draw out their matter. No one wants to go to court,” Ms. Isaac said.

THE CANADIAN PRESS

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### LEGALS

#### NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

##### RE: NOTICE OF PROOF OF CLAIMS FILING DATE IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“OES”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that any Person who wishes to assert a Claim, must deliver to Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “Liquidator”), on or before the Proof of Claims Filing Date stated below, a completed Proof of Claim, including all relevant supporting documentation in respect of such Claim, in the manner set out in the Claims Procedure Order.

**Pursuant to the Claims Procedure Order, the Proof of Claims Filing Date is 5:00 p.m. (Eastern Time) on August 31, 2021.** Proofs of Claim must be completed and filed with the Liquidator so as to be received on or before the Proof of Claims Filing Date.

**NOTE THAT AS SOON AS PRACTICABLE FOLLOWING THE PROOF OF CLAIMS FILING DATE THE LIQUIDATOR SHALL BRING A MOTION TO THE COURT FOR AN ORDER SETTING A FINAL BAR DATE (the “Bar Date Order”) AFTER WHICH ALL CLAIMS THAT HAVE NOT BEEN FILED WITH THE LIQUIDATOR WILL BE FOREVER BARRED AND EXTINGUISHED.**

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A copy of the Claims Procedure Order and the Claims Package is available at the following website: <https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

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

Deloitte Restructuring Inc., Court-appointed Liquidator of OES  
Claims Process

8 Adelaide Street West, Suite 200  
Toronto ON M5J 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)  
Phone: 416-607-1392

# **APPENDIX 6**



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## Legal &amp; Statutory Notices

## NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

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Deloitte Restructuring Inc.,  
Court-appointed Liquidator of OES  
Claims Process  
8 Adelaide Street West, Suite 200  
Toronto ON M5H 0A9  
Attention: Richard Williams CIRP, LIT  
Email: [ocswindup@deloitte.ca](mailto:ocswindup@deloitte.ca)  
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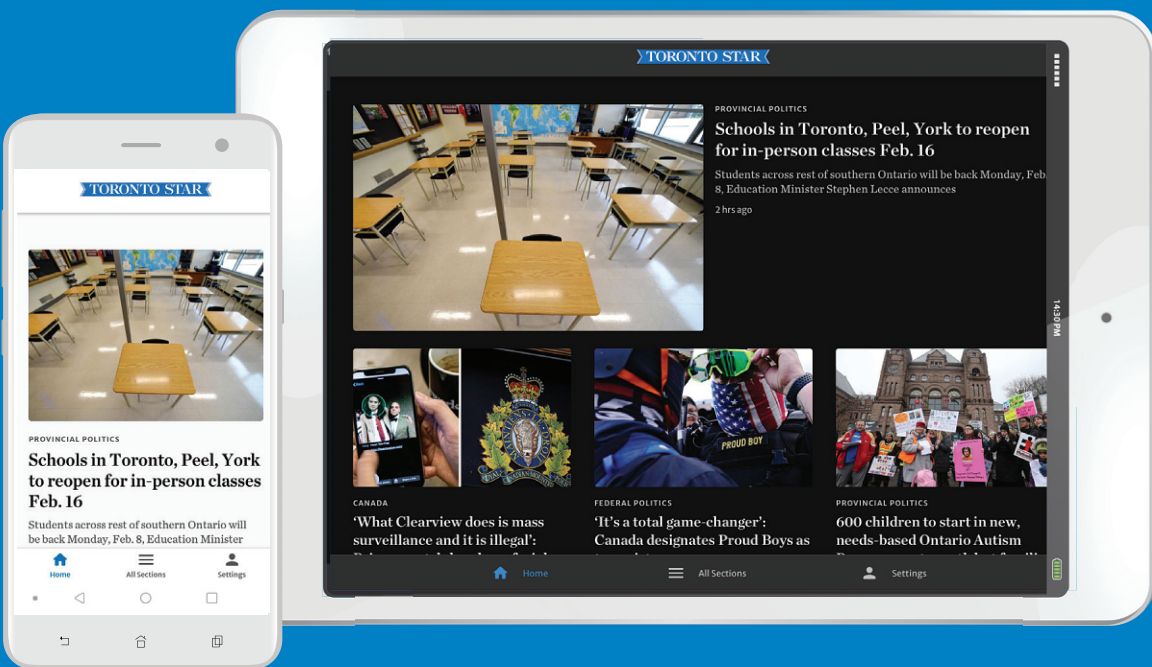
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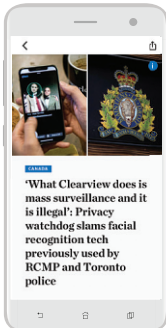
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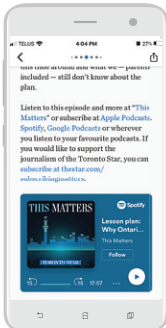
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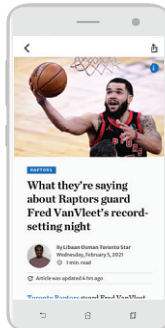
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## BUSINESS

### Legal and Statutory Notices

#### Legal & Statutory Notices

**NOTICE TO CREDITORS AND OTHERS**  
Claims against the Estate of **BLANCHE GOODING**, late of the City of Toronto, in the Province of Ontario who died on January 11th, 2021 must be in our hands by August 7th, 2021 after which date the estate will be distributed.  
Richard Duncan McLean  
Katharina Schmelein  
2756 Danforth Avenue  
Toronto, Ontario M4C 1L7

**NOTICE TO CREDITORS AND OTHERS**  
Claims against the Estate of **DOUGLAS JAMES MILLER**, late of the City of St. Catharines in the Province of Ontario who died on January 10, 2021 must be in our hands by August 7th, 2021 after which date the estate will be distributed.  
Donald George Martin  
c/o Reid, McLean, Scott  
2756 Danforth Avenue  
Toronto, Ontario M4C 1L7

#### NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

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Toronto ON M5J 0A9  
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Email photos to:  
[normsantiques@gmail.com](mailto:normsantiques@gmail.com)  
or call Norm 905-703-1107

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(416) 520-3500  
Harvey Kalles Real Estate Ltd.

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### Antique/Collector's Cars

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### Vehicles Under \$3000

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## EMPLOYMENT

### Office Help

**GENERAL BUSINESS ACCOUNTANT**  
Job Opening in small established Bradford Ontario Chemical and Agricultural supply Import/Export Broker Office. A Professional Accounting Designation preferred. Full time (some virtual, possible contract, possible part-time), Comptroller, payroll, balance sheet, Computer, Banking and Office procedures responsibility. Send Resume email to [Bradex@rogers.com](mailto:Bradex@rogers.com) or Fax 905-775-6630 in confidence.

**SEASONAL RECEPTIONIST**  
at Monument company (Bathurst and Lawrence) to start ASAP but will be (April-October from Sun.-Thurs.). Answering meridian phone switchboard, computer work, filing etc. Resume to: [barbi@benjamins.ca](mailto:barbi@benjamins.ca)

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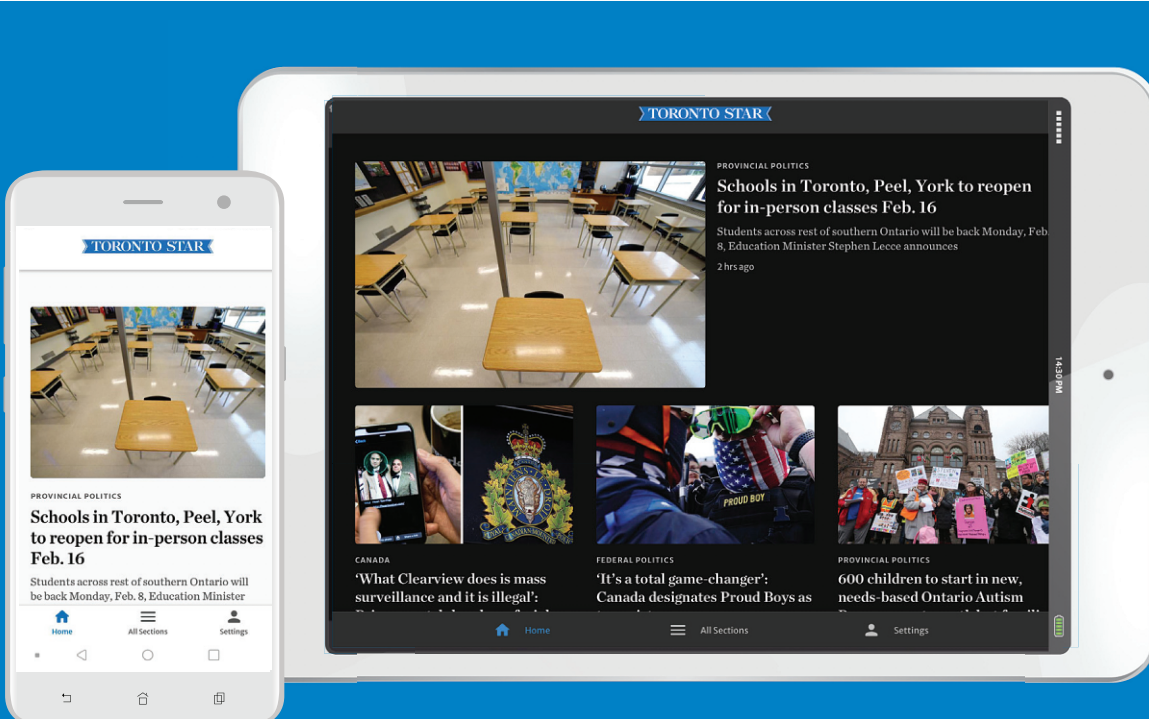


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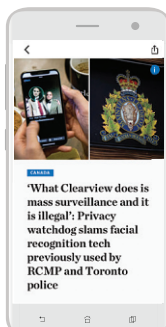
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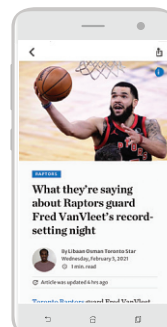
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# **APPENDIX 7**

## NOTICE TO CREDITORS OF ONTARIO ELECTRONIC STEWARDSHIP

### **IMPORTANT: CHANGE OF HEARING DATE FOR MOTION SEEKING BAR DATE ORDER**

**RE: NOTICE OF LIQUIDATOR'S MOTION TO THE COURT SEEKING A BAR DATE ORDER IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC STEWARDSHIP**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) made June 11, 2021 (the “**Claims Procedure Order**”), a claims procedure has been commenced for the identification, quantification, and resolution of claims of creditors of Ontario Electronic Stewardship (“**OES**”). Capitalized terms that are not defined herein have the meanings ascribed thereto in the Claims Procedure Order.

**PLEASE TAKE NOTICE** that Deloitte Restructuring Inc., in its capacity as the court-appointed liquidator of OES (the “**Liquidator**”), will make a motion (the “**Motion**”) before a judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on **October 8, 2021 at 11:00 A.M.** by judicial videoconference via Zoom for an order setting a final bar date (the “**Bar Date Order**”) providing that the Claim of any Known Claimant who has received a Pre-Populated Proof of Claim and has not returned a Proof of Claim on or before **October 21, 2021** (the Claims “**Bar Date**”), will be deemed to be as set out in the Pre-Populated Proof of Claim, that such Known Claimant will be barred from disputing or appealing same, and the balance of such Claim, if any, shall be forever barred and extinguished.

**PLEASE TAKE NOTICE** that the time for the hearing of the Motion has changed since the Liquidator's last notice to creditors was issued on September 13, 2021, due to the observance of the National Day for Truth and Reconciliation on September 30, 2021.

**IF YOU WISH TO ATTEND THE HEARING OF THE MOTION** on **October 8, 2021** please advise Kate Yurkovich by emailing [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com) to obtain the Zoom videoconference details.

A copy of the Liquidator's Motion Record, as filed, including the proposed Bar Date Order is available for download at the following website:

<https://www.insolvencies.deloitte.ca/en-ca/Pages/OntarioElectronicStewardship.aspx?searchpage=Search-Insolvencies.aspx>

**CREDITORS REQUIRING INFORMATION** may contact the Liquidator at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

Deloitte Restructuring Inc., Court-appointed Liquidator of OES

Claims Process

8 Adelaide Street West, Suite 200

Toronto ON M5J 0A9

Attention: Richard Williams CIRP, LIT

Email: [oeswindup@deloitte.ca](mailto:oeswindup@deloitte.ca)

Phone: 416-607-1392

# **APPENDIX 5**



# OES – Data Management Plan

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# OES – Data Management Plan

## Introduction

Deloitte Restructuring Inc. was appointed as liquidator (the “Liquidator”) of Ontario Electronic Stewardship (“OES”) on April 1, 2021 (the “Appointment Date”) in connection a Wind Up Plan (the “WUP”) prepared by OES and approved, subject to certain conditions (the “Conditions”), by the Resource Productivity & Recovery Authority (“RPRA”).

As set out in the WUP and Conditions, OES was required to prepare a detailed data management plan with the objective of ensuring data security and ensuring that data are solely used by OES for the purpose of implementing the WUP.

The WUP requires OES (and the Liquidator) to transfer relevant OES Data to RPRA . Any OES Data not transferred to RPRA will be destroyed or retained in accordance with relevant legislation.

The following data management plan sets out:

- The nature and structure of the OES Data as set out to the Liquidator by OES staff and contractors;
- The steps to be taken by the Liquidator to facilitate the identification and transfer of relevant OES Data to RPRA;
- The steps to be taken by the Liquidator to ensure that employees, officers and agents of the Environmental Products Recycling Association (“EPRA”) will have no access to the OES Data following termination of the OES-EPRA service agreement;
- The steps to be taken by the Liquidator to retain necessary OES Data in compliance with applicable legislation; and
- The steps to be taken by the Liquidator to ensure the secure destruction of OES Data not required for retention.

# OES – Data Management Plan

## Data Overview

The Majority of the OES Data is currently stored in a secure cloud-based platform (“Box”) and falls largely into three categories:

- Financial data, including accounting records created and maintained in legacy accounting software (Great Plains, Acc Pac);
- Business operations data, including working papers, contracts, compliance records and other business records; and
- Program data, including information relating to stewards, processors, collectors, generators and other participants in the WEEE program.

A detailed summary of the OES Data stored in Box prepared by OES’ IT consultant is attached hereto as Appendix “A”.

In addition to the OES Data stored in Box, the following OES Data is maintained by EPRA in its capacity as administrative agent for OES:

- Accounting records maintained in a sub-module of EPRA’s cloud-based instance of SAP and stored on a Microsoft Azure server hosted by EPRA;
- Banking records maintained in online platforms hosted by Royal Bank of Canada (“RBC”) and Canadian Imperial Bank of Commerce (“CIBC”); and
- Email records maintained and stored in Gmail, a cloud-based platform.

# OES – Data Management Plan

## Data Transfer - RPRA

In order to facilitate the review of OES Data by RPRA for the purpose of identifying OES Data to be transferred, the Liquidator will load the OES Data (other than SAP Data) to Relativity.

Relativity is an e-discovery and document review platform used by government agencies, corporations and law firms for the effective and efficient review of large volumes of emails and documents. Benefits of Relativity include:

- Online solution – access anywhere;
- Multiple users can access the data at the same time, each with secure login;
- Able to manage large amounts of data;
- Only displays unique items while keeping track of duplicates;
- Allows for various types of indexing and searching ;
- Workflow solutions allow users to tag documents as relevant, not relevant or custom tagging can be established.

The Liquidator is advised by EPRA that the SAP Data cannot be stored separately from the hosting server in the same manner as the legacy accounting data. As such, the Liquidator will pull and retain the following reports in Excel format for each fiscal year to which the SAP Data pertains:

- General ledger;
- Trial balance;
- Financial statements (including balance sheet, income statement and statement of cash flows);
- Subledgers (including accounts receivable and payable);
- Lists of vendors and creditors;
- Banking records, including cheque and disbursement details where possible; and
- Other records that may be identified during the transition process.

The extracted reports will be made available for review by RPRA on request.



# OES – Data Management Plan

## Data Segregation - EPRA

EPRA has access to the OES Data in its capacity as administrative agent pursuant to a service agreement dated November 1, 2013 (the “EPRA Agreement”). The EPRA Agreement was extended and effective February 28, 2021 with a revised termination date of June 30, 2021.

In order to facilitate the review and assessment of claims against the assets of OES (the “Claims Process”), EPRA will retain limited access to the OES Data. It is anticipated that the deadline for delivery of claims will be September 30, 2021.

In advance of the termination of the EPRA Agreement, but following the conclusion of the Claims Process, the Liquidator will:

- Transfer the database files and underlying transaction data for the MTS software to the Liquidator in such a way that the MTS database could be restored to a functioning status in the future;
- Revise permissions on the Box folders, Gmail server and online banking platforms to remove access held by EPRA staff;
- Engage StrataPrime to conduct a physical examination of EPRA’s network infrastructure to verify that OES Data has been fully removed from all virtual and physical storage media, to the extent possible given physical access restrictions imposed as a result of the COVID-19 pandemic (“COVID”).
  - In the unlikely event that COVID restrictions prevent a physical inspection, obtain an attestation from an officer of EPRA that all OES Data has been removed from all virtual and physical storage media of EPRA; and

# OES – Data Management Plan

## Data Segregation – EPRA (continued)

- Enter into an agreement (the “Extension Agreement”) with EPRA to restrict access to the SAP module containing OES Data, substantially in the form attached at Appendix “B”.
  - The Liquidator intends to maintain the data within SAP for a period of approximately 3 – 5 months to facilitate its claims process.
  - During the extension period, the Extension Agreement prohibits EPRA from accessing any OES Data unless requested by the Liquidator in connection with the Claims Process or with data transfer requirements.
  - The Extension Agreement also requires EPRA to provide a third-party report from SAP setting out details of each instance where OES Data in SAP is accessed. The report is limited to transaction data, as master file data (customer and vendor names and addresses) is used across multiple modules in SAP.
  - Details of the report are set out at Appendix “C”. The Liquidator will receive quarterly reports. EPRA has advised that reporting may be provided directly to RPRA following the dissolution of OES, subject to further discussion between EPRA and RPRA.
  - EPRA advises that SAP does not allow the deletion of data in cloud-based environments. EPRA has requested a service enhancement, but another solution may need to be developed in the event the OES Data cannot be deleted from EPRA’s instance of SAP.

# OES – Data Management Plan

## Data Retention and Destruction

The Liquidator will identify data subject to statutory retention requirements set out in legislation including (but not limited to):

Legislation	Period
Corporations Act, Ontario	2 years
Income Tax Act	7 years
Excise Tax Act	7 years

The final disposition of the records of OES and the Liquidator will be determined by order of the Ontario Superior Court of Justice.

The Liquidator will take steps to identify personal information (as defined in the Personal Information Protection and Electronic Documents Act) and commercially sensitive and dispose of same in a secure fashion.

# OES – Data Management Plan

## Anticipated Costs

The schedule below sets out the anticipated cost for the execution of the data management plan. The costs assume that RPRA will require access for 5 users for a one-year period, which can be renewed on an annual or monthly basis.

	Units	Rate	Cost (Pre-Tax)
Data Transfer			
Data processing, analysis and review, per GB	200.0	\$ 100.00	\$ 20,000.00
Citrix access per month (5 user, \$20/user)	12.0	\$ 100.00	\$ 1,200.00
Hosting storage fee per month (200 GB, \$10/GB)	12.0	\$ 2,000.00	\$ 24,000.00
Preparation, setup and load data to Relativity, hourly	5.0	\$ 350.00	\$ 1,750.00
Support, hourly	5.0	\$ 350.00	\$ 1,750.00
<b>Sub-Total</b>			<b>\$ 48,700.00</b>
Data Segregation			
Microsoft Azure Hosting per month	2.0	\$ 3,800.00	\$ 7,600.00
EPRA Data Purge and verification	1.0	\$ 27,500.00	\$ 27,500.00
Professional fees (forensic specialist), hourly	10.0	\$ 350.00	\$ 3,500.00
Professional fees (Liquidator), hourly	5.0	\$ 350.00	\$ 1,750.00
<b>Sub-Total</b>			<b>\$ 40,350.00</b>
Data Retention			
Professional fees (forensic specialist), hourly	5.0	\$ 350.00	\$ 1,750.00
Professional fees (Liquidator), hourly	10.0	\$ 350.00	\$ 3,500.00
<b>Sub-Total</b>			<b>\$ 5,250.00</b>
Data Destruction			
Professional fees, hourly	2.0	\$ 350.00	\$ 700.00
<b>Sub-Total</b>			<b>\$ 700.00</b>
<b>Total Cost, before taxes</b>			<b>\$ 95,000.00</b>



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# **APPENDIX 6**



Ontario Electronic Stewardship  
Liquidator's Data Retention and Destruction Plan

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# Introduction

Deloitte Restructuring Inc. was appointed as liquidator (the “Liquidator”) of Ontario Electronic Stewardship (“OES”) on April 1, 2021 (the “Appointment Date”) in connection a Wind Up Plan (the “WUP”) prepared by OES and approved, subject to certain conditions (the “Conditions”), by the Resource Productivity & Recovery Authority (“RPRA”).

As set out in the WUP and Conditions, OES was required to prepare a detailed data management plan with the objective of ensuring data security and ensuring that data are solely used by OES for the purpose of implementing the WUP.

The WUP requires OES (and the Liquidator) to transfer relevant OES Data to RPRA . Any OES Data not transferred to RPRA will be destroyed or retained in accordance with relevant legislation. The Liquidator prepared a Data Management Plan, which was approved by RPRA and is attached hereto as Appendix “A”.

This Data Retention and Destruction Plan details the Liquidator’s approach to identifying data retention and destruction requirements, categorizing existing data to comply with those requirements, and executing those requirements following program termination.

# Regulatory Overview

The Liquidator's obligation to retain records is governed by provincial and federal legislation, as well as the Wind Up Plan and the Standards of Professional Practice of the Canadian Association of Insolvency and Restructuring Professionals

---

## Provincial and Federal Legislation

Legislation governing the Liquidator's record retention obligations includes, but is not limited to:

- *Waste Diversion Transition Act*
- *Income Tax Act*
- *Excise Tax Act*

Where the retention periods under these acts vary for a given Data set, the Liquidator will adopt the longest retention period for the sake of simplicity.

The Liquidator will make commercially reasonable efforts to segregate the Data in order to apply the appropriate retention period. Where such segregation is not practical, the Liquidator will apply the longest relevant retention period.

---

## Wind Up Plan

Section 9 of the OES Wind Up Plan requires OES (and the Liquidator) to:

- ensure that data retention required to ensure compliance with residual program obligations, any outstanding Corporations Act or taxation requirements, will be retained in a manner consistent with those obligations;
- ensure that any data provided to RPRA is clearly marked and identified with retention requirements; and
- where RPRA cannot act as the repository for OES documents, take steps necessary to ensure of such data for the periods required.

---

## CAIRP Standards of Professional Practice

Deloitte Restructuring Inc., as well as key members of the Liquidator's team, are members of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP) and are subject to CAIRP's Standards of Professional Practice, which require the Liquidator to:

- take possession of those records of the Debtor required to administer the engagement;
- on completion of the engagement, either return the records to the Debtor or destroy them;
- maintain certain records relating to the administration of the engagement for a period of not less than four years following the completion of the engagement.

# Data Overview

OES Data is stored across multiple platforms, including SAP and Relativity



## 1 Relativity E-Discovery Platform

- OES operational data, including volume reports and other statistical information
- OES financial data, including invoices and related documentation
- OES governance data, including board minutes and legal documents
- Copies of OES emails (Gmail account)



## 2 SAP

- OES accounting data, including general ledger, sub-journals and trial balances
- Maintained by EPRA
- Subject to regular reporting requirements to verify that there is no unauthorized access by EPRA staff



## 3 Deloitte Environment

- Liquidator's records, including records of estate administration
- Liquidator's cash management and accounting systems
- Liquidator emails

# Retention Plan

Records will be stored for the longest relevant period under the *WDTA*, *ITA* or *ETA*

OES DATA - ELECTRONIC RECORDS ON RELATIVITY		
	ITA / ETA - Accounting Records (6 years)	WDTA - Operational / Corporate Records (5 years)
<b>Box</b>		
AP Potential Claims	x	
Fenin Ashaya's Files and Folders		
Invoices from Box	x	
Legacy Accounting Systems - Retention Copy	x	
Liquidator		
MTS System Files - For RPRA and Stakeholders		
MTS Data Extracts - Retention Copy	x	
My Box Notes		
OES - Contracts		x
OES - Enforcement		x
OES - Operations		x
OES - Website Backup (Retention Copy)		x
OES 3R Data Extracts - Shared with KPMG		
OES 3R Data Extracts (Retention Copy)	x	
OES Board Materials		x
OES 20220113		
OES-Accounting	x	
RPRA Data Releases - Files shared with RPRA		x
Various - OES Board Material		x
<b>Email</b>		
achpayments@ontarioes.ca	x	
executive.director@ontarioes.ca		
it@ontarioes.ca		
mandeep.arora1@ontarioes.ca		
nick.aubry.boardmember@ontarioes.ca		x
oesaccounting@ontarioes.ca	x	
oesoperations@ontarioes.ca	x	
oespayables@ontarioes.ca	x	
oeswindup@ontarioes.ca		
rbcpayee-match@ontarioes.ca	x	
taylor.hyatt1@ontarioes.ca	x	
<b>Supplemental Data Upload - June 2022</b>		
Box 01 through Box 14 (accounting records)	x	

- The Liquidator will retain data stored on Relativity as set out in the adjacent table, depending on whether the data is characterized as accounting or operational in nature.
- At the time of the Liquidator's discharge, the Liquidator will seek an order from the court authorizing it to destroy any records not transferred to RPRA. The application will be on notice to CRA.
- All electronic data held in Relativity will be destroyed at the earliest of (a) the expiry of the retention period under relevant legislation or (b) the date of a court order authorizing its earlier destruction.
- As set out in the OES Data Management Plan, accounting information held in the instance of SAP maintained by EPRA cannot be deleted. Ongoing reporting of access limits after the Liquidator's discharge must be negotiated between EPRA and RPRA.
- The Liquidator's records relating to estate administration will be maintained by the Liquidator for a period of 4 years according to its CAIRP obligations.

# **APPENDIX 7**

**In the Matter of the Liquidation of  
Ontario Electronic Stewardship  
of the City of Toronto, in the Province of Ontario  
Interim Statement of Receipts and Disbursements  
for the Period April 1, 2021 to July 31, 2024**

**RECEIPTS**

HST Refund	\$ 16,084,778
Cash on deposit upon Liquidator appointment	4,664,508
Interest earned on deposits	344,701
Rent deposit refund	36,814
Asset sales and collections	15,251
HST Collected	1,942

<b>TOTAL RECEIPTS</b>	<b>\$ 21,147,995</b>
-----------------------	----------------------

**DISBURSEMENTS**

Payments to RPRA for Waste Recycling	\$ 1,045,457
Liquidators Fees & Costs	471,827
HST/GST Consulting fees	307,392
HST/GST paid on disbursements	292,357
Legal Fees and Disbursements	239,200
Creditor Claim Payments	186,721
Accounting Services	135,238
Contract Services	62,920
Computer Services	50,531
Operating Expenses	20,732
Legal Action - Settlements	20,000
Insurance	19,535
Other Advertising	12,571
Outside Consulting	3,877
Other Misc. Disbursements	47,372

<b>TOTAL DISBURSEMENTS</b>	<b>\$ 2,915,730</b>
----------------------------	---------------------

<b>CASH ON HAND</b>	<b>\$ 18,232,265</b>
---------------------	----------------------

**Reconciliation to bank statements @ July 31, 2024**

Bank statement RBC 00002 150 347 3	432,265
Term investment RBC 0054 00150143419	15,300,000
Term investment RBC 0055 00150143419	2,500,000
<b>Total bank balance (Including term investment)</b>	<b>18,232,265</b>

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
  
(PROCEEDING COMMENCED AT TORONTO)

**SECOND REPORT OF THE LIQUIDATOR**

**GOWLING WLG (CANADA) LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

**Virginie Gauthier** (LSO#: 41097D)  
Tel: 416-369-7256  
Email: [virginie.gauthier@gowlingwlg.com](mailto:virginie.gauthier@gowlingwlg.com)

**Katherine Yurkovich** (LSO#: 80396R)  
Tel: 416-862-4342  
Email: [kate.yurkovich@gowlingwlg.com](mailto:kate.yurkovich@gowlingwlg.com)

*Lawyers for Deloitte Restructuring Inc., Court-appointed  
liquidator of Ontario Electronic Stewardship*

**TAB 3**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	MONDAY, THE 27TH
	)	
JUSTICE DIETRICH	)	DAY OF JANUARY, 2025

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF  
ONTARIO ELECTRONIC STEWARDSHIP

APPLICATION UNDER SS. 243, 244 and 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990,  
C. C.38

DELOITTE RESTRUCTURING INC.

Applicant

**ORDER  
(Distribution)**

**THIS MOTION**, made by the Applicant, Deloitte Restructuring Inc. (“**Deloitte**”), in its capacity as Court-appointed liquidator (in such capacity, the “**Liquidator**”) without security, of all of the assets, undertaking and properties of Ontario Electronic Stewardship (“**OES**” or the “**Corporation**”) for an order, among other things: (i) approving the second report of the Liquidator dated January 17, 2025 (the “**Second Report**”) and the activities described therein; (ii) authorizing payment by the Liquidator of the Surplus Funds (as defined in the Second Report) to RPRA minus amounts contemplated for the Holdback (as defined in the Second Report) (the “**Interim Distribution**”), and (iii) authorizing payment by the Liquidator of any unused portion of the Holdback representing Surplus Funds to RPRA in accordance with the Plan following the completion by the Liquidator of all ancillary matters required to complete the Winding-Up Proceedings, was heard this day by Zoom videoconference in Toronto, Ontario.

**ON READING** the Motion Record of the Liquidator dated January 17, 2025, the Second Report, and on hearing the submissions of counsel for the Liquidator, counsel for the Resource Productivity and Recovery Authority, no one appearing for any other person on the Service List, although duly served as appears from the affidavit of service of [●] sworn [●], 2025:

### **DEFINED TERMS**

1. **THIS COURT ORDERS** that all terms capitalized but not defined herein shall have the meanings ascribed to such terms in Wind Up and Appointment of a Liquidator order dated June 11, 2021 in these proceedings (the “**Appointment Order**”), or the Second Report, as applicable.

### **APPROVAL OF THE SECOND REPORT AND ACTIVITIES**

2. **THIS COURT ORDERS** that the Second Report and the actions, conduct and activities of the Liquidator referred to therein, be and is hereby approved; provided, however, that only Deloitte, in its capacity as Liquidator and in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

### **DISTRIBUTIONS**

3. **THIS COURT ORDERS** that the Liquidator shall, upon this Order becoming effective, pay the Surplus Funds held by the Liquidator in relation to this proceeding as follows:

(a) First, to provide a Holdback of \$1,000,000 for the estimated remaining professional fees of the Liquidator, its counsel and auditors, income tax liability resulting from interest earned on the portion of the Surplus Funds held in term deposits, if any, and any unanticipated costs that may be incurred by the Liquidator in completing the Winding-Up Proceedings; and

(b) Second, to pay the Interim Distribution to RPRA in accordance with the terms of the Plan.

4. **THIS COURT ORDERS** that the Liquidator shall, upon completion of all matters ancillary to these Winding-Up Proceedings, pay any unused portion of the Holdback representing additional Surplus Funds to RPRA in accordance with the Plan.

## **GENERAL**

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

6. **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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

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

8. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than ten (10) days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

9. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without any need for entry and filing.

IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO  
ELECTRONIC STEWARDSHIP  
APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*,  
R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

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

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Distribution)**

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IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF ONTARIO ELECTRONIC  
STEWARDSHIP

Court File No.: CV-21-00663305-00CL

APPLICATION UNDER SS. 243, 244 AND 246 OF THE *CORPORATIONS ACT*, R.S.O. 1990, C. C.38  
DELOITTE RESTRUCTURING INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
  
(PROCEEDING COMMENCED AT TORONTO)

**MOTION RECORD  
(Motion Returnable January 27, 2025)**

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