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*Counsel to the Foreign Representative*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Chapter 15
	)	
Inscape Corporation, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

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**MOTION FOR ORDER SCHEDULING RECOGNITION HEARING  
AND SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE**

Inscape Corporation, as the court-appointed foreign representative (the “Foreign Representative”) of the above-captioned debtors (the “Debtors”), which are the subject of jointly-administered proceedings (the “Canadian Proceedings”) under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) in the Ontario Superior Court of Justice, in Toronto, Ontario, Canada (the “Canadian Court”), respectfully submits this motion (the “Motion”) for entry of an order (i) scheduling a hearing on the relief sought in the *Verified Petition for Entry of Order Recognizing Foreign Main Proceeding and Granting Additional Relief* (the “Verified Petition”), and (ii) specifying the form and manner of

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<sup>1</sup> The Debtors in these Chapter 15 cases, along with the last four digits of each Debtor’s U.S. Federal Employer Identification Number (“FEIN”) or Canada Revenue Agency Business Number (“BN”), are: (i) Inscape Corporation (“Inscape”) (BN 1738), (ii) Inscape Inc., a Delaware Corporation (“Inscape Delaware”) (FEIN 1804), and (iii) Inscape (New York) Inc., a New York Corporation (“Inscape New York”) (FEIN 7231).

service of notice thereof. In support of this Motion, the Foreign Representative respectfully represents:

### **BACKGROUND**

1. On the date hereof, the Foreign Representative filed chapter 15 petitions for each of the Debtors (the “Chapter 15 Petitions”), the Verified Petition, and the *Declaration of Eric Ehgoetz in Support of Verified Petition for Entry of an Order Recognizing Foreign Main Proceedings and Granting Additional Relief* (the “Ehgoetz Declaration”). A further description of the Debtors’ business and the events leading up to the commencement of the Canadian Proceedings and these chapter 15 cases is included in the Ehgoetz Declaration, which is incorporated herein by reference.

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(P). Venue is proper in this district pursuant to 28 U.S.C. § 1410.

### **RELIEF REQUESTED**

3. The Foreign Representative respectfully requests entry of an order, substantially in the form attached hereto as **Exhibit A**, (i) scheduling a hearing on or about 21 days after the date of service of the Notice Documents (defined below), or as soon thereafter as this Court’s calendar permits, on the relief sought in the Verified Petition (the “Recognition Hearing”), (ii) setting the deadline by which any responses to the Verified Petition must be received (the “Objection Deadline”) on or about seven days prior to the date of the Recognition Hearing, (iii) approving the form of notice of the Recognition Hearing and Objection Deadline attached hereto as **Exhibit B** (the “Hearing Notice”), and (iv) approving the manner of service of the Hearing Notice described herein.

**BASIS FOR RELIEF REQUESTED**

4. Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) provides that the debtor, all persons or bodies authorized to administer Canadian Proceedings of the debtor, all entities against whom provisional relief under Bankruptcy Code section 1519 is sought, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct must be given at least 21 days’ notice of the Recognition Hearing.

5. Further, Bankruptcy Rules 2002(m) and 9007 provide, among other things, when notice is to be given under the Bankruptcy Rules, the presiding court shall designate the form and manner in which such notice shall be given, if the appropriate form and manner of notice is not specified by the Bankruptcy Code or Bankruptcy Rules. Although Bankruptcy Rule 2002(q)(1) provides that the parties specified must receive at least 21 days’ notice of the Recognition Hearing, it does not specify the form or manner in which such notice must be given. Therefore, pursuant to Bankruptcy Rules 2002(m) and 9007, this Court may specify such form and manner of notice.

6. The Foreign Representative has compiled a service list, annexed hereto as Exhibit C, containing (i) all parties required to be served with notice of the Recognition Hearing pursuant to Bankruptcy Rule 2002(q)(1) and (ii) additional parties whom the Foreign Representative proposes to serve with notice of the Recognition Hearing (collectively, the “Notice Parties”). The Foreign Representative respectfully submits that service of (i) the Hearing Notice, (ii) the Chapter 15 Petitions, (iii) the Verified Petition (including the proposed form of order), and (iv) the Ehgoetz Declaration (including all exhibits thereto) (together, the “Notice Documents”) (a) by electronic mail to the extent email addresses are available, and otherwise by United States mail, overnight or first-class postage prepaid, upon the Notice Parties

in accordance with Bankruptcy Rule 2002(q)(1) within two (2) business days following entry of an order approving this Motion and (b) by posting on the website maintained by Alvarez & Marsal Canada Inc., the Monitor appointed by the Canadian Court, at <https://www.alvarezandmarsal.com/InscopeCorporation> constitutes adequate and sufficient notice of the commencement of these cases and the relief sought in the Verified Petition. Further, publication of the Hearing Notice will also be provided in the *The Wall Street Journal*. Accordingly, the Foreign Representative respectfully requests that this Court approve the foregoing manner of service of the Notice Documents pursuant to Bankruptcy Rules 2002(m), 2002(q)(1), and 9007.

7. In addition, if any party files a notice of appearance in this case, the Foreign Representative proposes to serve the Notice Documents and subsequent notices upon such party within three (3) days of the filing of such notice of appearance if such documents have not already been served on such party (or its counsel).

8. Bankruptcy Rule 1012(b) provides, among other things, that objections and other responses to a petition for recognition of a foreign proceeding shall be presented no later than seven days before the date set for the hearing on the petition, unless the court prescribes some other time or manner for responses. The Foreign Representative respectfully requests, pursuant to Bankruptcy Rule 1012(b), that this Court set the Objection Deadline on or about 7 days prior to the Recognition Hearing.

9. Bankruptcy Code section 1514(c) provides that when notice of the commencement of a case is to be given to foreign creditors, such notice shall, among other things, indicate the time period for filing proofs of claim, specify the place for filing such proofs of claim, and indicate whether secured creditors need to file proofs of claim. The Foreign Representative submits, however, that section 1514 only applies in plenary cases and does not

apply in the context of a chapter 15 case. *See* Collier on Bankruptcy ¶ 1514.01 (section 1514 is the “last in a series of sections dealing with the international aspects of cases under chapters other than chapter 15 that begin with section 1511”). Accordingly, the Foreign Representative requests that the requirements contained therein be waived in this instance. Courts in this district have regularly granted this request.

**NO PRIOR REQUEST**

10. No prior request for the relief requested herein has been made to this or any other court.

Dated: January 23, 2023  
New York, New York

Respectfully submitted,  
WILLKIE FARR & GALLAGHER LLP

By: /s/ Weston T. Eguchi  
Weston T. Eguchi  
Jeffrey Pawlitz  
Jamie M. Eisen  
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*Counsel to the Foreign Representative*

**EXHIBIT A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 15
	)	
Inscape Corporation, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

**ORDER SCHEDULING RECOGNITION HEARING AND  
SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE**

Upon the motion (the “Motion”) of Inscape Corporation, as the foreign representative (the “Foreign Representative”) of the above-captioned debtors (the “Debtors”) for entry of an order (i) scheduling a hearing on the relief sought in the Verified Petition,<sup>2</sup> filed January 23, 2023, and (ii) specifying the form and manner of service of notice thereof, it is hereby ORDERED:

1. The Recognition Hearing shall be held before this Court on **February \_\_, 2023 at \_\_: \_\_ .m. (Eastern Standard Time)** or as soon thereafter as counsel may be heard, before the Honorable [ ], in Room [ ] of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004-1408.

2. Objections, if any, to the Verified Petition shall be made in writing and shall set forth the basis therefor, and such objections must be filed with this Court and served upon the Foreign Representative’s counsel, Willkie Farr & Gallagher LLP, 787 Seventh Ave, New York, New York 10019, Attn: Weston T. Eguchi, Esq., Jeffrey Pawlitz, Esq., and Jamie M. Eisen, Esq.,

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<sup>1</sup> The Debtors in these Chapter 15 cases, along with the last four digits of each Debtor’s U.S. Federal Employer Identification Number (“FEIN”) or Canada Revenue Agency Business Number (“BN”), are: (i) Inscape Corporation (“Inscape”) (BN 1738), (ii) Inscape Inc., a Delaware Corporation (“Inscape Delaware”) (FEIN 1804), and (iii) Inscape (New York) Inc., a New York Corporation (“Inscape New York”) (FEIN 7231).

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

so as to be received by \_\_:\_\_ .m. (Eastern Standard Time) on February \_\_, 2023, with a courtesy copy served upon the Chambers of the Honorable [ ], United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004-1408.

3. The form of Hearing Notice attached to the Motion as Exhibit B is approved.

4. Copies of the Notice Documents shall be served by (i) electronic mail to the extent email addresses are available, and otherwise by United States mail, first-class postage prepaid, upon the Notice Parties within two (2) business days following entry of an order approving the Motion and (ii) by posting on the Monitor's website at <https://www.alvarezandmarsal.com/InscapeCorporation>. Further, publication of the Hearing Notice shall be provided in the *The Wall Street Journal*.

5. If any party files a notice of appearance in these cases, the Foreign Representative shall serve a copy of the Notice Documents on such party or its counsel within three (3) business days following the filing of such notice of appearance if such documents have not already been served on such party (or its counsel).

6. The notice requirements in Bankruptcy Code section 1514(c) are inapplicable in the context of these cases.

7. Service pursuant to this order shall be good and sufficient service and adequate notice of the Recognition Hearing.

Dated: New York, New York  
\_\_\_\_\_, 2023

\_\_\_\_\_  
United States Bankruptcy Judge



**EXHIBIT B**

**Hearing Notice**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Chapter 15
	)	
Inscape Corporation, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

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**NOTICE OF FILING AND HEARING ON PETITIONS  
UNDER CHAPTER 15 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on January 23, 2023, Inscape Corporation, as the court-appointed foreign representative (the “Foreign Representative”) of the above-captioned debtors (the “Debtors”), which are the subject of jointly-administered proceedings under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 in the Ontario Superior Court of Justice in Toronto, Ontario, Canada (the “Canadian Proceedings”), filed a verified petition (the “Verified Petition”) with the U.S. Bankruptcy Court for the Southern District of New York (the “Court”).

PLEASE TAKE FURTHER NOTICE that, among other things, the Verified Petition requests entry of an order recognizing the Canadian Proceedings as foreign main proceedings pursuant to section 1517 of title 11 of the U.S. Code (the “Bankruptcy Code”), granting related relief pursuant to Bankruptcy Code section 1520, and granting certain additional relief pursuant to Bankruptcy Code section 1521.

PLEASE TAKE FURTHER NOTICE that the Court has scheduled a hearing to consider the relief requested in the Verified Petition (the “Recognition Hearing”) at [\_\_: \_\_.m. (E.S.T.) on February \_\_, 2023]. The Recognition Hearing will be held before the Honorable [ ] in Room [ ] of the U.S. Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, N.Y. 10004-1408. At the Recognition Hearing, the Court may order the scheduling of a case management conference to consider the efficient administration of the Debtors’ cases.

PLEASE TAKE FURTHER NOTICE that any objection to the Verified Petition must be made in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the U.S. Bankruptcy Court for the Southern District of New York, and any rules of the Honorable [ ] in a writing that sets forth the basis for such objection with specificity. Any such objection must be filed with the Court electronically by registered users of the Court’s case filing system and served upon the Foreign Representative’s counsel, Willkie Farr & Gallagher LLP, 787 Seventh Ave, New York, N.Y. 10019, Attn: Weston T. Eguchi and Jamie M. Eisen, so

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<sup>1</sup> The Debtors in these Chapter 15 cases, along with the last four digits of each Debtor’s U.S. Federal Employer Identification Number (“FEIN”) or Canada Revenue Agency Business Number (“BN”), are: (i) Inscape Corporation (“Inscape”) (BN 1738), (ii) Inscape Inc., a Delaware Corporation (“Inscape Delaware”) (FEIN 1804), and (iii) Inscape (New York) Inc., a New York Corporation (“Inscape New York”) (FEIN 7231).

as to be received no later than [\_\_:\_\_.m. (E.S.T.) on February \_\_, 2023], with two courtesy copies served upon the Chambers of the Honorable [ ], U.S. Bankruptcy Judge, U.S. Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, N.Y. 10004-1408.

PLEASE TAKE FURTHER NOTICE that if no objection is timely filed and served as provided above, the Court may grant the relief requested in the Verified Petition without a hearing or further notice.

PLEASE TAKE FURTHER NOTICE that any party in interest objecting to the Verified Petition or the relief requested therein must appear at the Recognition Hearing at the time and place set forth above.

PLEASE TAKE FURTHER NOTICE that the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court or a notice of adjournment filed with the Court.

PLEASE TAKE FURTHER NOTICE that copies of the Verified Petition and all other documents filed in this case can be accessed (i) at <https://www.alvarezandmarsal.com/InscopeCorporation> or (ii) from the Court's website, <http://ecf.nysb.uscourts.gov> (a PACER login and password are required to retrieve documents).

Dated: January \_\_, 2023  
New York, New York

Respectfully submitted,  
WILLKIE FARR & GALLAGHER LLP

By: /s/ Weston T. Eguchi  
Weston T. Eguchi  
Jamie M. Eisen  
787 Seventh Avenue  
New York, N.Y. 10019  
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*Counsel to the Foreign Representative*

**EXHIBIT C**

**Service List**

**Service List**

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<p><b>PONTE GADEA NEW YORK, LLC</b> 370 Biscayne Blvd. Way, Suite 201 Miami, Florida 33131</p> <p><b>Sinthujan Kanghatharan</b> sinthujank@pontegadea.com Tel: 305-373-9559</p> <p><i>Landlord</i></p>	<p><b>CEDAR CITY PARADISE TOLL RD. INC</b> 124 Merton St. Suite 502 Toronto, ON M4S 2Z2</p> <p><b>Steven Silverberg</b> steven@cedarcitydev.com Tel: 416-306-9900</p> <p><b>Harrison Demone</b> harrison@cedarcitydev.com Tel: 416-306-9900</p> <p><i>Landlord</i></p>
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<p><b>INTERNAL REVENUE SERVICE</b> Centralized Insolvency Operations P.O. Box 7346 Philadelphia, PA 19101-7346</p>	<p><b>U.S. SECURITIES AND EXCHANGE COMMISSION</b> New York Regional Office Brookfield Place 200 Vesey Street, Suite 400 New York, NY 10281-1022</p>
<p><b>PENSION BENEFIT GUARANTY CORPORATION</b> Office of the Chief Counsel 445 12th Street SW Washington, DC 20024-2101</p>	<p><b>FASTENAL COMPANY</b> P.O. Box 1286 Winona, Minnesota 55987-1286</p> <p><i>Plaintiff in Fastenall v. Inscope (New York) Inc.</i></p>
<p><b>LIPPES MATHIAS, LLP</b> 50 Fountain Plaza, Suite 1700 Buffalo, New York 14202-2216</p>	<p><b>RELIN, GOLDSTEIN &amp; CRANE, LLP</b> 28 East Main Street, Suite 1800 Rochester, New York 14614</p>

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