



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N :

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INSCAPE CORPORATION, INSCAPE (NEW YORK) INC., AND INSCAPE INC.

Applicants

NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on

☐ In person

☐ By telephone conference

☒ By video conference

at the following location

[Zoom link to be uploaded on Caselines.](#)

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: January , 2023

Issued by

Local registrar

Address of
court office

330 University Avenue,
8th floor, Toronto, Ontario

TO: SERVICE LIST ATTACHED

SERVICE LIST

(as of January 11, 2023)

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APPLICATION

1. Inscape Corporation (“**Inscape**”), Inscape (New York) Inc. (“**Inscape New York**”) and Inscape Inc. (“**Inscape Delaware**”, and together with Inscape and Inscape New York, the “**Inscape Group**” or the “**Applicants**”) make this application under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) for an order, among other things:

- (a) abridging the time for and validating service of this notice of application and the application record and dispensing with service on any person other than those served;
- (b) declaring that the Applicants are companies to which the CCAA applies;
- (c) granting a stay of proceedings in favour of the Inscape Group and its directors and officers for an initial period of eight (8) days, up to and including January 20, 2023;
- (d) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as the court-appointed monitor of the Inscape Group (in such capacity, the “**Proposed Monitor**”);
- (e) granting an administration charge in the amount of \$250,000 over the assets, undertakings and property of the Applicants (the “**Property**”) in favour of counsel for the Applicants, the Monitor and the Monitor’s counsel (the “**Administration Charge**”);
- (f) granting a directors and officers charge over the Property (the “**Directors’ Charge**”, together with the Administration Charge, the “**Priority Charges**”);
- (g) authorizing the Inscape Group to continue utilizing its cash management system (the “**Cash Management System**”);

- (h) authorizing the Applicants to incur no further expenses in relation to the Securities Filings (as defined below) and declare that none of the directors, officers, employees, and other representatives of the Applicants, or the Monitor (and its directors, officers, employees and representatives) shall have any personal liability for any failure by the Applicants to make Securities Filings; and
- (i) scheduling a comeback hearing (“**Comeback Hearing**”) for January 20, 2023.

2. THE GROUNDS FOR THE APPLICATION ARE:

Background to the Inscape Group’s Business

- (a) Inscape Group’s corporate structure is as follows: Inscape is the parent (and 100% owner) of Inscape Delaware, and Inscape Delaware is the 100% owner of Inscape New York.
- (b) Inscape is a publicly traded entity regulated by the Ontario Securities Commission. Its shares are traded on the Toronto Stock Exchange.
- (c) The Inscape Group is in the business of designing, manufacturing and selling office furniture and architectural walls for customers across North America and Europe on contract. It operates its design and manufacturing business out of two (2) leased facilities: (i) a facility in Holland Landing, East Gwillimbury, Ontario; and (ii) a facility in Jamestown, New York. The Inscape Group also maintains leased premises for showrooms in Chicago, Washington, and New York City.

Need for CCAA Protection

- (d) Over the last decade, the Inscape Group’s business has experienced declining financial performance. This has been exacerbated by the Covid-19 pandemic, which directly affected the entire contract office furniture industry, due to various forms of “work from home” mandates in Canada and the U.S. This includes a dramatic decline in the size and sales mix of incoming orders and much lower than expected order volumes.

- (e) In light of the declining demand, the Inscope Group is becoming increasingly unable to sustain the high ongoing costs of running its business and no longer has access to sufficient working capital to do so.
- (f) The Inscope Group is insolvent, unable to meet its obligations as they become due and is in need of protection from its creditors.
- (g) The Inscope Group, in consultation with its advisors, has determined that the best path forward to maximize value for its stakeholders is through a court-supervised process under the CCAA, including, among other things, a liquidation of its assets and an orderly wind-up of the affairs of the business.

Stay of Proceedings

- (h) The Inscope Group seeks a stay of proceedings to provide it with the breathing room necessary to effectively develop a strategy and path forward, with a view to maximizing value for all of its stakeholders.
- (i) In addition to a stay of proceedings in favour of the Inscope Group and its assets, the Applicants are also seeking a stay of proceedings in favour of the Inscope Group's directors and officers to ensure that they are able to focus their efforts on the Inscope Group's path forward.

Proposed Monitor

- (j) The Applicants seek the appointment of A&M as Monitor of the Applicants in these CCAA proceedings. A&M has assisted in the preparation of a projected 13-week cash flow forecast (the "**Cash Flow Forecast**") for the period ending April 7, 2023.
- (k) A&M has also provided the Applicants with guidance and assistance in the commencement of these CCAA proceedings. As a result, A&M has developed critical knowledge about the Applicants, their business operations, financial challenges, strategic initiatives and restructuring efforts to date.

- (l) A&M has consented to act as the Monitor, subject to Court approval.

Administration Charge

- (m) The Applicants seek a super-priority Administration Charge over the Applicants' Property (as defined in the Initial Order) in favour of the Monitor, counsel to the Monitor, and counsel to the Applicants (collectively, the "**Professionals Group**"), to secure payment of their professional fees and disbursements, whether incurred before or after the date of the Initial Order.
- (n) The proposed Administration Charge being sought at the initial CCAA Application is for a maximum amount of \$250,000 in order to secure the payment of fees and expenses incurred in connection with moving for the within relief sought and for the eight (8) day period leading up to the Comeback Hearing. It is contemplated that the Professionals Group will have extensive involvement during the CCAA proceedings. The Professionals Group have contributed and will continue to contribute to the Applicants' efforts in these CCAA proceedings, and will ensure that there is no unnecessary duplication of roles among them.

Directors' Charge

- (o) Inscape maintains a run-off directors' and officers' liability insurance policy. However, the Inscape Group's ordinary course operations may give rise to potential director and officer liability. To address any potential exposure if they continue to act as directors or officers, the Inscape Group is seeking a Directors' Charge.
- (p) The quantum of the Directors' Charge was developed with the assistance and support of the Proposed Monitor. The Inscape Group is of the view that the quantum of the Directors' Charge is reasonably necessary at this time to address circumstances that could lead to potential directors' liability prior to the Comeback Hearing.

Authorization to Incur No Further Costs in Connection with Securities Filings

- (a) The Applicants seek authorization to dispense with certain securities filing requirements. In particular, the Applicants seek authorization for Inscope to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the “**Securities Filings**”) that may be required by any federal, provincial, or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including without limitation, the *Securities Act* (Ontario), RSO 1990 c S. 5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the CSE.
- (b) Incurring the time and costs associated with preparing the Securities Filings will detract from the Applicants’ ability to successfully develop a plan that will result in an orderly distribution to its creditors. There is no prejudice to stakeholders given that detailed financial information and other information regarding the Applicants will continue to be made publicly available through the materials filed in these CCAA proceedings.

Cash Management System

- (c) In the ordinary course of business, the Inscope Group uses a centralized banking and cash management system (“**Cash Management System**”) to, among other things, collect funds and pay expenses associated with its operations. Details on the Cash Management System are set out in the Affidavit of Eric Ehgoetz sworn January 10, 2023, filed in support of this Application.
- (d) The Applicants intend to continue using the existing Cash Management System during the CCAA Proceedings and are seeking the approval of the Court to do so. Given the scale and nature of the Inscope Group’s operations and the volume of transactions that are processed daily within the Cash Management System, the

Proposed Monitor is of the view that the continued use of the existing Cash Management System is required and appropriate during these CCAA proceedings.

GENERAL

- (e) The provisions of the CCAA;
- (f) Rules 2.03, 3.02, 14.05, 16.04 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, as amended; and
- (g) such further and other grounds as counsel may advise and this Honourable Court may deem just.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

- (a) The Affidavit of Eric Ehgoetz sworn January 11, 2023;
- (b) The consent of A&M to act as Monitor;
- (c) The pre-filing report of the proposed Monitor, to be filed;
- (d) Such further and other evidence as counsel may advise and as this Honourable Court may admit.

January 11, 2023

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IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INSCAPE CORPORATION, INSCAPE (NEW YORK) INC., AND INSCAPE INC.

Applicants

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

NOTICE OF APPLICATION
(RETURNALE JANUARY 12, 2023)

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