

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

**FIFTH REPORT OF THE MONITOR
ALVAREZ & MARSAL CANADA INC.**

JUNE 6, 2023

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1.0 INTRODUCTION

- 1.1 On January 12, 2023 (the “**Filing Date**”), each of Inscope Corporation (“**Inscope Corp**”), Inscope (New York) Inc. (“**Inscope New York**”) and Inscope Inc. (“**Inscope Delaware**”, and collectively with Inscope Corp and Inscope New York, the “**Inscope Group**” or the “**Applicants**”) obtained an initial order (the “**Initial Order**”) from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The proceedings commenced thereby are referred to herein as the “**CCAA Proceedings**”. Among other things, the Initial Order appointed Alvarez & Marsal Canada Inc. (“**A&M**”) as monitor of the Applicants in the CCAA Proceedings (in such capacity, the “**Monitor**”).
- 1.2 In connection with the CCAA Proceedings, A&M, then in its capacity as proposed monitor, filed and served the Pre-Filing Report of the Proposed Monitor dated January 11, 2023 (the “**Pre-Filing Report**”). Following its appointment, the Monitor subsequently prepared and filed with the Court the First Report of the Monitor dated January 18, 2023 (the “**First Report**”), the Second Report of the Monitor dated March 2, 2023 (the “**Second Report**”), the Third Report of the Monitor dated March 22, 2023 (the “**Third Report**”) and the Fourth Report of the Monitor dated April 15, 2023 (the “**Fourth Report**” and collectively with the Pre-Filing Report, the First Report, the Second Report and the Third Report, the “**Prior Reports**”).
- 1.3 On January 20, 2023, the Applicants obtained an amended and restated Initial Order (“**ARIO**”) that, among other things, extended the Stay Period (as defined in the ARIO) to and including March 9, 2023.

- 1.4 On March 1, 2023, the United States Bankruptcy Court for the Southern District of New York entered an order, among other things: (i) enforcing the ARIO, including any extensions, amendments or modifications thereto, in the United States; and (ii) recognizing the CCAA Proceedings as foreign main proceedings.
- 1.5 On March 8, 2023, the Court issued an order that, among other things, extended the Stay Period to and including April 21, 2023.
- 1.6 On March 24, 2023, the Court issued an order (the “**Ancillary Relief Order**”) that, among other things:
- (i) approved the asset purchase agreement dated March 10, 2023 between the Inscope Group, as sellers, and Gordon Brothers Canada ULC, as purchaser;
 - (ii) granted certain relief to the Applicants in connection with a dispute with one of their dealer customers, Prevolv Inc. (“**Prevolv**”); and
 - (iii) authorized the Monitor to make distributions to HUK 116 Limited (“**Hilco**”) up to the amount of Hilco’s secured indebtedness, on account of the Applicants’ indebtedness owing to Hilco.
- 1.7 On April 18, 2023, the Court issued an order that, among other things, extended the Stay Period to and including July 14, 2023.
- 1.8 On April 21, 2023, the Court issued an order (the “**Interim Relief Order**”) that, among other things:

- (i) directed Prevolv to provide, on a confidential basis, the Applicants and the Monitor with certain financial and accounting information (described in more detail herein); and
 - (ii) ordered that the receivable of US\$2,147,490 owing by Prevolv to the Applicants (the “**Dealer Receivable**”) is due and payable to Inscape.
- 1.9 On May 2, 2023, the Court also issued a cost award in favour of the Applicants in connection with the Dealer Receivable motion pursuant to which Prevolv was ordered to pay costs for abandoning its motion against the Applicants, on a partial indemnity basis, in the amount of \$165,692.35 (the “**Cost Award**”).
- 1.10 Neither the Dealer Receivable nor the Cost Award have been paid.
- 1.11 Inscape Corp was incorporated under the laws of the Province of Ontario and was previously publicly listed on the Toronto Stock Exchange (TSX:INQ).¹ Inscape New York (a New York registered corporation) is a wholly-owned direct subsidiary of Inscape Delaware (a Delaware registered corporation), and an indirect subsidiary of Inscape Corp.
- 1.12 The Inscape Group’s business was the manufacturing and distribution of office furniture to customers predominantly located in the United States and Canada, with product lines that included cubicles, movable walls, filing cabinets, bookcases and other ergonomic furniture.

¹ Following a delisting review by the Toronto Stock Exchange, Inscape Corp’s shares were delisted effective close of market on February 21, 2023. Trading of shares has been suspended since January 12, 2023 as a result of the CCAA Proceedings.

- 1.13 These CCAA Proceedings were commenced to provide a platform for the Applicants to conduct a wind-down and liquidation of their assets and business in an orderly fashion, and to maximize realizations for the benefit of all stakeholders (the “**Orderly Wind-Down**”).
- 1.14 The Prior Reports and all other Court-filed documents in the CCAA Proceedings are available on the Monitor’s case website at: www.alvarezandmarsal.com/InscapeCorporation (the “**Case Website**”).
- 1.15 The limited purpose of this Fifth Report of the Monitor (the “**Fifth Report**”) is to provide the Court with information and, where applicable, the Monitor’s views on:
- (i) the proposed minutes of settlement (the “**Minutes of Settlement**”) between the Applicants and Prevolv, which contemplate, among other things, a full and final settlement between the parties in connection with the disputed Dealer Receivable and the related Cost Award; and
 - (ii) the Monitor’s conclusions and recommendations in connection with the proposed Minutes of Settlement.
- 1.16 Prior to the next Court hearing, the Monitor intends to file a further report with this Court to provide a general update on the Orderly Wind-Down, the Applicants’ cash position and any other updates in connection with the administration of these CCAA Proceedings.

2.0 TERMS OF REFERENCE AND DISCLAIMER

- 2.1 In preparing this Fifth Report, the Monitor has been provided with, and has relied upon, unaudited financial information and the books and records prepared by the Applicants, and

has had discussions with management of the Applicants and its legal counsel (collectively, the “**Information**”). Except as otherwise described in this Fifth Report:

- (i) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**CPA Handbook**”) and, accordingly, the Monitor expresses no opinion or any other form of assurance contemplated under the CAS in respect of the Information; and
- (ii) some of the information referred to in this Fifth Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

2.2 The Monitor has also been provided with, and has relied on, Confidential Dealer Information (as defined below) prepared by Prevolv. The Monitor has reviewed the information for reasonableness but has not otherwise audited or examined the information in a manner as outlined in the CPA handbook.

2.3 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars (“**CAD**”).

3.0 PROPOSED MINUTES OF SETTLEMENT

Overview

- 3.1 Prior to the commencement of these CCAA Proceedings, Prevolv was one of the Applicants' larger customers and authorized dealers. As an authorized dealer, Prevolv placed orders with Inscape to purchase furniture and related products and would then sell the Inscape product to end customers and assist those customers with installation.
- 3.2 In addition to a typical supplier-dealer relationship, in June 2021, Inscape and Prevolv jointly entered into a lease agreement (the "**Chicago Lease**") as co-tenants in respect of a showroom (the "**Chicago Showroom**") located in Chicago, Illinois. The Chicago Showroom was intended to be a retail location to showcase Inscape's furniture and related products and was to be operated by Prevolv. Due to Inscape's insolvency, the Chicago Showroom was never fully opened to the public.
- 3.3 As discussed in the Prior Reports, as part of the Orderly Wind-Down, the Applicants continued certain limited operations, including the final manufacturing, fabrication and delivery of certain customer orders. Certain of these final deliveries, primarily consisting of "punch list" items, related to Prevolv purchase orders.
- 3.4 As detailed in the affidavit of Eric Ehgoetz sworn March 21, 2023 (the "**Fourth Ehgoetz Affidavit**"), by February 27, 2023, the Applicants completed all remaining "punch list" items and released for shipment the final orders outstanding with Prevolv. Following these final shipments, the amount owing by Prevolv to Inscape was US\$2,147,490 (the "**Dealer Receivable**").

- 3.5 As was detailed in the Fourth Ehgoetz Affidavit, the Affidavit of John Ewine sworn March 23, 2023, and discussed in the Prior Reports, Prevolv disputed its requirement to pay the Dealer Receivable and asserted a claim of set-off for certain costs incurred, and future contingent costs that may be incurred by it, in connection with Inscape’s insolvency and the wind-down of its operations (the “**Dealer Dispute**”).
- 3.6 In connection with the Dealer Dispute, the Applicants and Prevolv agreed to advance their respective positions by way of summary determination: (i) on the one hand, Prevolv would bring a motion to have its claim against the Applicants proven and to seek leave to lift the stay of proceedings to apply its set-off claim; and (ii) on the other hand, the Applicants would bring a cross-motion to compel payment of the Dealer Receivable without any right of set-off, and enforce the terms of dealer agreements entered into between the parties pursuant to which Prevolv waived the right to set off.
- 3.7 In connection with this, the Applicants sought certain interim relief against Prevolv, which Prevolv opposed. The parties attended before the Court on March 24, 2023 to make their respective arguments with respect to the interim relief sought by the Applicants. Following this hearing, the Court made the Ancillary Relief Order, which included, among other things:
- (i) a timetable for the delivery of the parties’ respective materials, the conduct of cross-examinations, and the scheduling of a motion to be heard on May 2, 2023 (the “**Dealer Claim Motion**”); and
 - (ii) a requirement that Prevolv provide to the Monitor:

- (a) information about the collection status of accounts receivable owing from Prevolv's customers relating to the sale of Inscape products that formed part of the Dealer Receivable; and
 - (b) financial information, in a form and substance acceptable to the Monitor, to satisfy the Monitor that Prevolv has sufficient liquidity to pay the disputed Dealer Receivable and that Prevolv's funds have not been utilized in a manner that appears outside of the ordinary course,
- (collectively, the "**Confidential Dealer Information**").

3.8 During the weeks following the issuance of the Ancillary Relief Order, Prevolv provided the Monitor with certain financial and other information (constituting the Confidential Dealer Information). Following its review of the Confidential Dealer Information, the Monitor was in a position to conclude that: (i) Prevolv had collected from its end customers almost all of the receivables that related to the Dealer Receivable, and such funds were used by Prevolv towards a partial pay down of its secured debt obligations; and (ii) Prevolv was facing serious financial and liquidity challenges, which may, in turn, impact its ability to pay the Dealer Receivable to Inscape.

Prevolv Motion

3.9 Pursuant to the Ancillary Relief Order, on April 10, 2023, Prevolv served its motion record. Prevolv's motion included a supporting affidavit from John Ewine, the President of Prevolv, and set out its argument of set-off. Prevolv's set-off claims against Inscape totalled US\$8.3 million, and consisted of amounts relating to damages for cancelled purchase orders, terminated contracts, costs incurred from delays and deficiencies, sales rebates,

specific design and construction costs related to the Chicago Showroom, and future contingent damages related to Inscape's potential breach of the Chicago Lease.

Inscape's Responding Motion

- 3.10 Pursuant to the Ancillary Relief Order, on April 17, 2023, Inscape served its responding and cross-motion record, including a supporting affidavit from Eric Ehgoetz.

Prevolv Abandonment

- 3.11 On April 20, 2023, prior to the cross-examinations that were scheduled to occur in late April, Prevolv served a Notice of Abandonment abandoning its April 10th motion to lift the stay of proceedings and assert its set-off claims.
- 3.12 Also, on or around April 20th, Prevolv notified the Monitor and the Applicants' legal counsel that, due to its current financial and liquidity position, and the impact that paying the Dealer Receivable would have on its business, in combination with the significant obligations relating to the Chicago Lease (which the Monitor understand is likely be abandoned by the parties), it had recently engaged specialized counsel and advisors to advise it on contingency planning and options to address its immediate liquidity constraints.
- 3.13 As discussed above, based on the Confidential Dealer Information provided to the Monitor, it was apparent that Prevolv was, in fact, facing serious financial and liquidity challenges, which created uncertainty regarding its ability to pay the Dealer Receivable and continue to operate as a going concern.

3.14 In response to Prevolv's Notice of Abandonment, Inscape scheduled an emergency court hearing for April 21, 2023. Following the hearing, the Court issued the Interim Relief Order, which, among other things:

- (i) directed Prevolv to provide, on a confidential basis, the Applicants and the Monitor with an accounting of the source of disposition of all amounts that Prevolv received from its end customers, on account of the sale of products manufactured by Inscape and sold on to end customers;
- (ii) directed the Monitor to provide any and all Confidential Dealer Information to the Applicants and Hilco (the Applicants' senior secured creditor); and
- (iii) in light of Prevolv having served and filed the Notice of Abandonment, declared that the Inscape Receivable is, therefore, due and payable by Prevolv to the Applicants.

Settlement Discussions

3.15 Based on the above events, including, but not limited to, Prevolv's solvency concerns, and the Applicants' desire to maximize recovery of the Dealer Receivable for the benefit of all creditors while curtailing (to the extent possible) the significant legal and professional fees being incurred to pursue the above litigation and ongoing dispute with Prevolv, Inscape determined, with the support of the Monitor and Hilco, that it would be beneficial to the Applicants' estate to re-engage in settlement discussions with Prevolv.

3.16 With assistance from the Monitor, the Applicants and Prevolv reached a settlement agreement and on May 30, 2023, the parties finalized the Minutes of Settlement, which are

attached hereto as **Appendix “A”**. The key terms of the Minutes of Settlement include the following:²

- (i) Prevolv shall pay US\$300,000 to Inscape immediately upon execution of the Minutes of Settlement;³
- (ii) Prevolv shall pay US\$137,500 to Inscape by way of six equal monthly installments beginning July 1, 2023;
- (iii) in the event that Prevolv and Inscape enter into a sublease arrangement (or similar) respecting the terms of the Chicago Lease, Prevolv shall pay to Inscape US\$312,500 by way of six equal monthly installments beginning January 1, 2024 (the “**Contingent Payments**”). The Contingent Payments are subject to, and would be reduced by, any amounts that are contractually owed and paid by Prevolv pursuant to the Chicago Lease, including any lease payments made from January 1 through June 1, 2024 if a sublease arrangement (or similar) has not been entered into;
- (iv) Prevolv has assigned to Inscape any and all amounts that Prevolv may be entitled to receive from a US\$500,000 letter of credit that was previously provided as security to the landlord under the Chicago Lease. If a sublease arrangement (or

² Capitalized terms used but are not otherwise defined in this Fifth Report shall have meanings given to them in the Minutes of Settlement.

³ The Monitor notes that, pursuant to a Trust Agreement entered into by Prevolv and the Monitor (and acknowledged by the Applicants) on June 1, 2023, Prevolv agreed to pay the US\$300,000 to the Monitor to be held in trust pending the Court’s approval of the Minutes of Settlement.

similar) is entered into, any undrawn amounts from the letter of credit may be returned/paid over to the Applicants;

(v) in the event that a claims process is commenced in these CCAA Proceedings for the benefit of Inscapes' unsecured creditors, Prevolv shall file with the Monitor an unsecured claim in the amount of:

(a) US\$1,626,521.53 in respect of its claim for certain construction costs in relation to the Chicago Showroom; and

(b) US\$2,820,219.88 representing the incremental lease payments that Prevolv may be obligated to pay due to Inscape's default under the Chicago Lease, subject to any amounts not actually payable if a sublease arrangement (or similar) is entered into.

3.17 Of the above collectible amounts: (i) US\$437,500 are fixed balances that are required to be paid by Prevolv under any scenario; and (ii) US\$312,500 and any amounts recoverable under the letter of credit are entirely contingent on Inscape and Prevolv entering into a sublease agreement (or similar) with a third party whereby the third party assumes Prevolv's obligations under the Chicago Lease.

3.18 The Monitor understands that the Applicants and Prevolv are currently working with a real estate broker and the Chicago Lease landlord to identify a new third party tenant for the Chicago Showroom. Accordingly, these contingent amounts may ultimately not be collectible by the Applicants.

- 3.19 Prior to finalizing the Minutes Settlement and agreeing to Prevolv's two unsecured claim amounts (the second of which is contingent and subject to mitigation), the Monitor performed a detailed review of the underlying documentation supporting Prevolv's unsecured claims, consistent with the type of review process that the Monitor would typically conduct in a Court-ordered CCAA claims process.

4.0 CONCLUSIONS AND RECOMMENDATIONS

- 4.1 The Applicants are seeking the approval of the Minutes of Settlement. A copy of the form of the Approval Order is attached hereto as **Appendix "B"**.
- 4.2 The Monitor supports the Applicants' motion for the Approval Order and is satisfied that, under the circumstances, the Minutes of Settlement are reasonable and appropriate for the following reasons:
- (i) the Applicants worked diligently in an effort to maximize the recovery of the Dealer Receivable;
 - (ii) in light of Prevolv's current financial and liquidity challenges, the Minutes of Settlement will mitigate the risk of Prevolv's potential insolvency, which would likely result in materially impaired recoveries to the Applicants;
 - (iii) the Minutes of Settlement will avoid the accrual of further legal and professional costs;
 - (iv) the Minutes of Settlement provide certainty regarding the recovery by Inscope of a portion of the Dealer Receivable, which recovery would otherwise not be certain if Prevolv were to file or be forced to commence insolvency proceedings; and

- (v) the Monitor is of view that the settlement amounts reached are:
 - (a) fair and reasonable under the circumstances;
 - (b) balance the claims of both parties involved equitably;
 - (c) beneficial to all stakeholders of these CCAA Proceedings by providing certainty of recovery while minimizing additional costs to the estate; and
 - (d) the terms of the settlement and ultimate result are consistent with the purpose and spirit of the CCAA.

All of which is respectfully submitted to the Court this 6th day of June, 2023.

**Alvarez & Marsal Canada Inc., in its capacity as
Monitor of Inscope Corporation, Inscope Inc. and Inscope (New York) Inc.,
and not in its personal or corporate capacity**

Per:



Josh Nevsky
Senior Vice-President

APPENDIX “A”

MINUTES OF SETTLEMENT

MINUTES OF SETTLEMENT

THESE MINUTES OF SETTLEMENT dated as of May 30, 2023, are:

BETWEEN:

Inscope Corporation, Inscope (New York) Inc. and Inscope Inc. (collectively, "**Inscope**")

- and -

Prevolv, Inc. ("**Prevolv**" and together with Inscope, the "**Parties**" and each a "**Party**")

WHEREAS:

- A. On January 12, 2023 (the "**Filing Date**"), Inscope obtained an initial order (the "**Initial Order**") from the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Among other things, the Initial Order appointed Alvarez & Marsal Canada Inc. ("**A&M**") as monitor of Inscope in the "**CCAA Proceedings**" (in such capacity, the "**Monitor**").
- B. Prior to the commencement of the CCAA Proceedings and ensuing wind-down of operations, Inscope was in the business of designing, manufacturing and selling office furniture and architectural walls, and relied on authorized dealer and representative relationships to sell product at a retail level.
- C. Prevolv is an authorized dealer of Inscope pursuant to the terms of two Platinum Dealer Agreements dated October 14, 2016 and November 11, 2018, respectively (the "**Dealer Agreements**").
- D. Prevolv is indebted to Inscope in the amount of USD\$2,147,490 for work orders completed by Inscope for the benefit of Prevolv pursuant to the Dealer Agreements (the "**Inscope Receivable**"), which amount remains outstanding as of the date hereof.
- E. On April 10, 2023, Prevolv brought a motion to, *inter alia*, lift the stay of proceedings in the CCAA Proceedings to permit it to assert set-off claims against Inscope vis-à-vis the Inscope Receivable (the "**Prevolv Motion**"), but subsequently delivered a Notice of Abandonment of the motion on April 20, 2023.
- F. Pursuant to an Order of the Court dated April 24, 2023, the Inscope Receivable was ordered due and payable by Prevolv to Inscope (the "**Receivable Order**").

G. Pursuant to an Endorsement dated May 2, 2023, the Court granted costs in favour of Inscape in the amount of CAD\$165,692.35, inclusive of HST and disbursements (the "**Costs Award**"), on account of Prevolv's abandonment of the Prevolv Motion, and ordered Prevolv to pay same to Inscape forthwith (the "**Costs Order**").

H. On May 5, 2023, Inscape brought a motion returnable July 11, 2023 seeking an order, among other things, declaring that Prevolv has been unjustly enriched by its receipt and retention of the Inscape Receivable and imposing a constructive trust in favour of Inscape over the Inscape Receivable (the "**Constructive Trust Motion**").

I. On or about June 17, 2021, the Parties, as co-tenants, entered into a lease (the "**Chicago Lease**") with Thor 816 Fulton Owner LLC, as landlord, in respect of a showroom located in the Fulton Market Building in Chicago, Illinois (the "**Premises**"). The Chicago Lease has a term of December 1, 2021 to November 30, 2032, and provides that the Parties are jointly and severally liable for payments due thereunder (the "**Lease Payments**").

J. Under the terms of the Chicago Lease, (i) monthly Lease Payments commenced on April 1, 2023, and (ii) the Parties were required to provide to the landlord an Irrevocable Letter of Credit No. A068 dated May 26, 2021 in the amount of USD\$500,000.00 (the "**Letter of Credit**"), which was to be drawn on in the event of the Parties defaulting on the Lease Payments.

K. On April 13, 2023, the Parties entered into an exclusive sublease listing agreement with CBRE. CBRE is currently marketing the Premises for sublease.

L. The Parties have agreed to settle any and all disputes between them relating to any of the foregoing on the terms of these Minutes of Settlement (this "**Agreement**").

NOW THEREFORE, in consideration of the terms set out below, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Each of the recitals above is true and correct in all respects and forms part of these Minutes of Settlement.

2. Prevolv shall pay to Inscape the sum of USD\$437,500 as follows (the "**Unconditional Amount**"):

- a. Prevolv shall pay USD\$300,000.00 to Inscape immediately upon the execution of these Minutes of Settlement; and
- b. Prevolv shall pay an additional USD\$137,500.00 to Inscape by way of six (6) equal monthly installments. Upon the execution of these Minutes of Settlement, Prevolv shall either deliver to Inscape six post-dated cheques, each in the amount of USD\$22,916.67 and dated July 1, August 1, September 1, October 1, November

1, and December 1, 2023, respectively, or wire such instalments on each of the aforementioned dates. Inscape or the Monitor shall be entitled to deposit any such cheques on the dates noted in this Section 2.b.

3. The Parties agree that in the event that on or before December 1st, 2023, the Parties enter into a binding sublease agreement with a subtenant respecting the terms of the Chicago Lease, or in the event that any other development or arrangement with the landlord and/or subtenant reduces or releases Prevolv from its obligation to pay rent under the Chicago Lease for the Premises (the "**Sublease**"), Prevolv shall pay the following additional amounts to Inscape under this Agreement, which amounts are in addition to the amounts set out in Section 2 above:

- a. USD\$312,500.00 to Inscape by way of six (6) equal monthly installments (the "**Contingent Payments**"), each in the amount of USD\$52,083.33, by wire transfer on January 1, February 1, March 1, April 1, May 1 and June 1, 2024, respectively. The Parties agree that the Contingent Payments shall be reduced by any amounts that are contractually owed and ultimately paid by Prevolv pursuant to the Chicago Lease in excess of the Letter of Credit. For greater clarity, and notwithstanding any other provision of these Minutes of Settlement, in the event that Prevolv makes any payments to the landlord pursuant to the Chicago Lease in excess of the Letter of Credit, any such payments made will be deducted from and reduce the amount of the Contingent Payments due and payable by Prevolv to Inscape under these Minutes of Settlement;
- b. If the Sublease does not reduce or release Prevolv's obligations under the Chicago Lease until after December 1, 2023 then the Contingent Payments will also be reduced by any amounts that are contractually owed and ultimately paid by Prevolv to the Landlord pursuant to the Chicago Lease; and
- c. Prevolv shall assign and/or direct payment to Inscape, or cause the issuing bank to pay to Inscape, any and all amounts that Prevolv receives from the undrawn portion of the Letter of Credit (the "**Prevolv Share**"), in accordance with the Irrevocable Assignment and Direction of Funds ("**Assignment**") substantially in the form attached hereto as Schedule "A".

(collectively, the Contingent Payments and the Prevolv Share being the "**Conditional Amounts**" and together with the Unconditional Amount, the "**Settlement Amount**").

4. The date upon which the Settlement Amount is received by Inscape, or satisfied in full pursuant to the terms of these Minutes of Settlement, shall be the "**Effective Date**".

5. Prevolv shall file with the Monitor an unsecured Proof of Claim in the amount of USD\$1,626,521.53 in respect of its claim for financed and unfinanced construction costs, which Proof of Claim shall not be disputed by Inscape and shall be allowed by the Monitor in full, such that it will constitute a valid proven unsecured claim as against the estate of Inscape.
6. Prevolv shall file with the Monitor an unsecured Proof of Claim in the amount of USD\$2,820,219.88 which represents Inscape's portion of the costs of the Chicago Lease, which Proof of Claim shall not be disputed by Inscape and shall be allowed by the Monitor in full, such that it will constitute a valid proven unsecured claim as against the estate of Inscape; provided that this claim shall only be permitted/allowed if there is no Sublease in effect on the date when the Monitor commences any Court-supervised claims process under the CCAA Proceedings.
7. If Prevolv defaults in the payment of any of the foregoing obligations in sections 2 and 3 above, these Minutes of Settlement shall immediately terminate and Inscape shall be permitted to take such steps as it deems necessary to pursue the full recovery of the Inscape Receivable and the Costs Award, less any amounts already paid by Prevolv to Inscape pursuant to these Minutes of Settlement, which steps may include the commencement of proceedings in the United States to recognize or otherwise give effect to the Receivable Order and the Costs Order.
8. The Parties will each be responsible for their own incurred legal expenses and shall not make a claim for same as against each other, except in the event of default as set out in section 7.
9. Each of the Parties hereto hereby acknowledges and agrees that, upon the Effective Date, each of the Inscape Receivable and the Costs Award shall be deemed to have been satisfied in full.
10. Upon the Effective Date, Prevolv, along with its successors, assigns, parents, subsidiaries and affiliates, and each of their respective shareholders, directors, officers, agents, representatives, administrators and employees, hereby fully and forever release Inscape, and each of their successors, assigns, agents, representatives, administrators, parents, subsidiaries, directors, officers, employees and affiliated entities, as applicable, from all claims, manner of actions, causes of action, applications, debts, dues, accounts, bonds, covenants, contracts, complaints, obligations, duties, breaches of contract, breaches of duty or any relationship, acts, omissions, representations, warranties, compensations, controversies, promises, damages, costs, losses, expenses, remedies for losses, choses in action, entitlements, liabilities, demands, suits, rights of indemnity and all other claims and rights, including, without limitation, claims and causes of action in respect of preferences, transfers at undervalue or fraudulent conveyances (whether any such claims

and causes of action arise pursuant to applicable federal or provincial legislation) (collectively, the "**Claims**"), whether or not known or anticipated, monetary or non-monetary, in law, equity or otherwise, which Prevolv ever had or now has or can, shall or may hereafter have against Inscope in connection with the Receivable Order and the Costs Order, in each case based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date, save and except for Prevolv's claims set out in Sections 5 and 6 above.

11. Upon the Effective Date, Inscope and each of their respective shareholders, directors, officers, agents, representatives, administrators and employees, hereby fully and forever release Prevolv, and each of its successors, assigns, agents, representatives, administrators, parents, subsidiaries, shareholders, directors, officers, employees and affiliated entities, as applicable, from all Claims, whether or not known or anticipated, monetary or non-monetary, in law, equity or otherwise, which Inscope ever had or now have or can, shall or may hereafter have against Prevolv in connection with the Receivable Order and the Costs Order or any other liabilities and obligations of Prevolv to Inscope in connection therewith.
12. Time shall be of the essence, and there shall be no delay on the part of either of the Parties in fulfilling the obligations under these Minutes of Settlement.
13. The Parties shall sign all documents necessary, or incidental, to give effect to these Minutes of Settlement.
14. These Minutes of Settlement cancels and replaces any prior understandings, explanations, and agreements between the Parties hereto concerning its contents. There are no representations or warranties, terms, conditions, undertakings or collateral agreements (whether express, implied or statutory) between the Parties hereto other than as expressly outlined in these Minutes of Settlement.
15. These Minutes of Settlement shall be binding upon and enure to the benefit of each of the Parties hereto and its respective successors and permitted assigns.
16. Each of the Parties acknowledges and declares that: (a) it has had an adequate opportunity to read and consider these Minutes of Settlement and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (b) it fully understands the nature and effect of these Minutes of Settlement; and (c) these Minutes of Settlement has been duly executed voluntarily.
17. These Minutes of Settlement may be amended only by mutual consent of the Parties hereto in writing.


18. These Minutes of Settlement shall be governed by the laws of the Province of Ontario, Canada. Any dispute arising from these Minutes of Settlement shall be determined by, and the Parties unconditionally attorn to, a court of competent jurisdiction in the Province of Ontario, Canada.
19. These Minutes of Settlement may be executed in one or more counterparts by PDF or electronic signature, each of which so executed shall constitute an original and all of which together shall constitute one and the same agreement.
20. These Minutes of Settlement is subject to approval by the Court, and shall be fully and effectively binding on the Parties hereto upon the Court granting an Order approving and confirming same.

[Signature page follows]

Execution Version


IN WITNESS HEREOF, the Parties have duly executed these Minutes of Settlement as of the first date written above.

Inscape Corporation

By: 
Name: Eric Elgoetz
Title: CEO


I have the authority to bind the corporation

Inscape (New York) Inc.

By: 
Name: Eric Elgoetz
Title: CEO

I have the authority to bind the corporation

Inscape Inc.

By: 
Name: Eric Elgoetz
Title: CEO

I have the authority to bind the corporation

Prevolv, Inc.

By: _____
Name: _____
Title: _____

I have the authority to bind the corporation

Execution Version

IN WITNESS HEREOF, the Parties have duly executed these Minutes of Settlement as of the first date written above.

Inscape Corporation

By: _____

Name: _____

Title: _____

I have the authority to bind the corporation

Inscape (New York) Inc.

By: _____

Name: _____

Title: _____

I have the authority to bind the corporation

Inscape Inc.

By: _____

Name: _____

Title: _____

I have the authority to bind the corporation

Prevolv, Inc.

By: John Ewine

Name: John Ewine

Title: President

I have the authority to bind the corporation

The foregoing is acknowledged by the Monitor as of the first date written above.

Alvarez & Marsal Canada Inc., in its capacity as court-appointed Monitor of Inscope Corporation, Inscope Inc. and Inscope (New York) Inc., and not in its personal or corporate capacity

By: 

Name: Josh Nevsky

Title: Senior Vice-President

I have the authority to bind the corporation

SCHEDULE "A"
AUTHORIZATION AND DIRECTION

TO: Platinum Bank (the "**Bank**")

FROM: Prevolv, Inc. ("**Prevolv**")

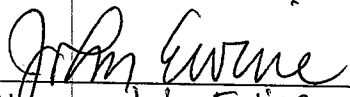
RE: Irrevocable Letter of Credit No. A068 in the amount of \$500,000 (the "**LOC**") made available by Platinum Bank in connection with a lease agreement dated June 17, 2021 as between Thor 816 W. Fulton Owner LLC, Prevolv, Inc., and Inscape, Inc.

The undersigned hereby irrevocably authorizes and directs Platinum Bank to pay to Inscape, Inc., or any of its duly-appointed agents or nominees, any and all available amounts which Prevolv, Inc. may be entitled to receive under the terms and conditions of the LOC upon cancellation of the LOC in such form or manner as Inscape may direct from time to time.

The Bank may conclusively rely on such Authorization and Direction and shall have no duty to make any inquiry or investigation with respect to the correctness of such Authorization and Direction.

DATED AS OF THIS 30th day of May, 2023.

Prevolv, Inc.

By: 
Name: John Ewine
Title: President

I have the authority to bind the corporation

A068
53020449.10

APPENDIX “B”

DRAFT APPROVAL ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 9TH

JUSTICE CONWAY

)

DAY OF JUNE, 2023

)

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

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

ORDER

(Settlement Approval)

THIS MOTION, made by Inscap Corporation, Inscap (New York) Inc. and Inscap Inc. (collectively, the “**Applicants**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”), for an order, among other things, approving a settlement agreement dated as of May 30, 2023 (“**Minutes of Settlement**”) and made between the Applicants and Prevolv, Inc. (“**Prevolv**”), was heard this day by Zoom videoconference.

ON READING the Applicants’ Notice of Motion dated June 6, 2023, and the Fifth Report of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor of the Applicants (the “**Monitor**”) dated June 6, 2023, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for those other parties present as indicated on the counsel slip, and on reading the affidavit of service of Maureen McLaren sworn June 6, 2023, filed:

SERVICE

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

SETTLEMENT APPROVAL

2. **THIS COURT ORDERS** that the Minutes of Settlement are hereby approved, and shall be fully and effectively binding on the parties thereto

3. **THIS COURT ORDERS** that the Applicants, Prevolv and the Monitor are hereby authorized and directed to take such steps as may be necessary or desirable to give effect to the Minutes of Settlement.

GENERAL

4. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date it is made, and is enforceable without any need for entry and filing.

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

ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST
Proceeding commenced at TORONTO

ORDER
(Returnable June 9, 2023)

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Lawyers for the Applicants

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

Court File No. CV-23-00692784-00CL

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**FIFTH REPORT OF THE MONITOR,
ALVAREZ & MARSAL CANADA INC.**

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Counsel for Alvarez & Marsal Canada Inc., in its capacity as Monitor
of Inscape Corporation, Inscape Inc. and Inscape (New York) Inc.