

**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.

**MOTION RECORD OF THE MONITOR, ALVAREZ & MARSAL CANADA INC.
(Returnable October 27, 2023)**

October 24, 2023

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York) Inc.*

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OF INSCAPE CORPORATION, INSCAPE INC.
AND INSCAPE (NEW YORK) INC.

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2. Seventh Report of the Monitor dated October 24, 2023

Appendices

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 - C. Management's Representation Letter Regarding the Cash Flow Forecast
3. Draft Order
 4. Service List

TAB 1

**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 (NEW YORK) INC., AND INSCAPE INC.
(collectively, the “**Applicants**”)

**NOTICE OF MOTION
(Returnable October 27, 2023)**

Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Monitor (the “**Monitor**”) of each of Inscap Corporation, Inscap (New York) Inc. and Inscap Inc. (collectively, the “**Inscap Group**” or the “**Applicants**”) will bring a motion before the Court on October 27, 2023, at 11:00 a.m., or as soon after that time as the motion can be heard, via Zoom videoconference,

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

- ☐ In person
☐ By telephone conference
☒ By video conference

at the following location

<https://ca01web.zoom.us/j/65400327305?pwd=WC91RjNENjNnZ1Q2NHpvdDlzaUNldz09#success>

Meeting ID: 654 0032 7305

Passcode: 082269

THE MOTION IS FOR:

1. An Order, among other things,
 - (a) abridging the time for and validating service of this notice of motion and the motion record and dispensing with service on any person other than those served;
 - (b) extending the stay of proceedings in favour of the Applicants to a date to be determined and set by this Court; and
 - (c) such further and other relief as counsel may advise and as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

2. On January 12, 2023 (the “**Filing Date**”), each of 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**”.

3. The CCAA Proceedings were commenced to provide a platform for the Applicants to conduct an orderly wind-down and liquidation of their assets and business, and to maximize realizations for the benefit of all stakeholders.

4. Among other things, the Initial Order:

- (a) granted an initial stay of proceedings in favour of the Applicants and their directors and officers;

- (b) appointed A&M as Monitor of the Applicants in the CCAA Proceedings; and
- (c) granted certain charges against the Property (as defined in the Initial Order) of the Applicants, in the following priority rankings:
 - (i) first, an administration charge in the amount of \$250,000 in favour of counsel for the Applicants, the Monitor and its counsel (the **“Administration Charge”**); and
 - (ii) second, a directors’ and officers’ charge in the amount of \$750,000 (the **“D&O Charge”**);

5. On January 20, 2023, the Applicants obtained an amended and restated Initial Order (**“ARIO”**) that, among other things:

- (a) extended the Stay Period (as defined in the ARIO) up to and including March 9, 2023;
- (b) granted a charge over the Property of the Applicants in favour of the beneficiaries of a Key Employee Retention Plan in the aggregate amount of \$350,000; and
- (c) increased the amount of the Administration Charge to \$800,000.

6. On March 8, 2023, this Court granted an order that, among other things, extended the Stay Period to April 21, 2023. By further Orders of the Court dated April 18, 2023 and July 13, 2023, respectively, the Stay Period was subsequently extended, and is now set to expire on October 31, 2023.

7. The Applicants, with the oversight and support of the Monitor, have advanced the orderly wind-down of the Inscape Group, and few activities remain to bring these CCAA Proceedings to a conclusion.

8. To that end, the Applicants and the Monitor are continuing to work through the remaining activities and the Applicants intend to bring a motion, at the first available date, for an Order, among other things:

- (a) approving the activities and conduct of the Monitor described in its report to the Court, to be filed;
- (b) approving the fees and disbursements of the Monitor, its Canadian counsel, Aird & Berlis LLP, and its US counsel, Faegre Drinker Biddle & Reath LLP, including their respective fee accruals;
- (c) terminating the CCAA Proceedings and releasing the above-referenced, Court-ordered charges granted;
- (d) discharging A&M as Monitor in the CCAA Proceedings; and
- (e) certain other ancillary relief related to the termination of the CCAA Proceedings.

9. Given the nature of certain of the relief that will be sought by the Applicants in connection with the termination of the CCAA Proceedings, namely, the discharge of the D&O Charge and potentially the release of the directors and officers of the Applicants, the Monitor is of the view that proper service of the Applicants' motion materials is necessary.

10. As the Stay Period is set to expire on October 31, 2023, in the circumstances, the Applicants are unable to bring their intended motion on proper notice to the stakeholders.

11. Accordingly, and in an effort to advance matters expeditiously, the Monitor brings this motion for an Order extending the Stay Period to and including the earliest date on which the Court is available to hear the Applicants' impending motion to terminate the CCAA Proceedings.

12. The Monitor is of the view that the Applicants have acted, and continue to act, in good faith and with due diligence throughout these CCAA Proceedings.

13. The requested extension of the Stay Period will afford time for the Applicants and the Monitor to complete the ongoing wind-down efforts, and prepare a fully-briefed and properly served motion record and Monitor's report to the Court on the relief expected to be sought.

14. The Applicants will have sufficient liquidity to carry out the ongoing wind-down of operations through to the end of the proposed extended Stay Period, as is evidenced in the Seventh Report.

15. The Monitor does not believe that any creditor will be prejudiced if the extension is granted.

16. The provisions of the CCAA, including section 11 and the statutory, inherent and equitable jurisdiction of this Court.

17. Rules 1.04, 2.01, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

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

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

- (a) the Seventh Report of the Monitor dated October 24, 2023; and
- (b) such further and other evidence as counsel may advise and this Court may permit.

October 24, 2023

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TO: THE SERVICE LIST

**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

**NOTICE OF MOTION
(Returnable October 27, 2023)**

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TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE PENNY

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FRIDAY, THE 27th
DAY OF OCTOBER, 2023

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

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

**ORDER
(STAY EXTENSION)**

THIS MOTION, made by Alvarez & Marsal Canada Inc., in its capacity as Monitor (the “**Monitor**”) of each of Inscape Corporation, Inscape (New York) Inc. and Inscape Inc. (collectively, the “**Inscape Group**” or the “**Applicants**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), was heard this day by Zoom videoconference,

ON READING the Notice of Motion of the Monitor, and the Seventh Report dated October 24, 2023 (“**Seventh Report**”) of the Monitor, and on hearing the submissions of counsel for the Monitor, counsel for the Inscape Group, and any other parties listed on the Counsel Slip, and no one appearing for any other party although duly served as appears from the affidavit of service of Matilda Lici sworn October 24, 2023, filed,

DEFINED TERMS

1. **THIS COURT ORDERS** that all terms capitalized but not defined herein shall have the meanings ascribed to such terms in the amended and restated initial order of Justice Conway dated January 20, 2023 (“**Amended and Restated Initial Order**”).

SERVICE

2. **THIS COURT ORDERS** that the time for service 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.

EXTENSION OF STAY

3. **THIS COURT ORDERS** that until and including _____, 2023 or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

GENERAL

4. **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 Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Foreign Representative in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

5. **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.

6. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

**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.**

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

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

ORDER
(STAY EXTENSION)

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TAB 4

**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
(the "CCAA")

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

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

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

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

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ALVAREZ & MARSAL CANADA INC.**

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