

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND*
***INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF MISSISSAUGA IN
THE PROVINCE OF ONTARIO

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.

MOTION RECORD
(Returnable June 12, 2023)

June 6, 2023

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Royal Bank Plaza, South Tower
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Lawyers for the Companies, Prosysco
Ltd. and 1110615 Ontario Ltd.

TO: THE SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND*
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TAB 1

Court File No. BK-23-02929201-0032
Estate No. 32-2929201

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE *BANKRUPTCY AND*
INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF MISSISSAUGA IN
THE PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.**

NOTICE OF MOTION
(RE: Stay Extension)

Prosysco Ltd. and 1110615 Ontario Ltd. (collectively, the “**Companies**”) will make a motion to a Judge presiding over the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on June 12, 2023 at 09:30 a.m., or as soon after that time as the motion can be heard by Zoom video conference.

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

- ☐ in writing under subrule 37.12.1 (1) because it is 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:

Video conference details will be uploaded to Caselines.

THE MOTION IS FOR:

1. an order in the form appended as tab 3 to the Companies' Motion Record that, among other things:
 - a) extends the time for the Companies to file a proposal for a period to July 31, 2023, which is the first business day after an extension period of 45 days (which would otherwise be Saturday, July 29);
 - b) approves the actions, conduct and activities of the Proposal Trustee (as defined below) as set out in the Second Report; and
 - c) approves the professional fees and disbursements of the Proposal Trustee (as defined below) and its counsel; and
2. such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Background

3. Prosysco Ltd. ("**Prosysco**") is a manufacturer, designer and supplier of highly specialized engineering process solutions targeting the biotech, pharmaceutical, food, beverage and dairy industries.

4. 1110615 Ontario Ltd. (“**111 Ontario**”) is the parent company of Prosysco that controls 80% of the outstanding shares of Prosysco. 111 Ontario is a holding company that does not conduct business or have any employees.
5. On April 1, 2023, the Companies each filed a Notice of Intention to Make a Proposal (“**NOI**”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). Albert Gelman Inc. was appointed as proposal trustee under the BIA (the “**Proposal Trustee**”).
6. On April 24, 2023, the Court granted an order (a) extending the time for the Companies to file a proposal for forty-five days to June 14, 2023, and (b) administratively consolidating the NOI proceedings of the Companies.

Extension of Time to File a Proposal

7. The current time to file a proposal under the BIA expires on June 14, 2023.
8. The Companies seek a second extension of the time to file a proposal to and including July 31, 2023 in order to, among other things, maintain stability of their operations, implement operational changes, continue exploring refinancing and restructuring options, and develop a viable proposal to its creditors.
9. Without an extension of time, the Companies will not be in a position to make a viable proposal to their creditors and the Companies will be deemed bankrupt, to the detriment of their creditors and stakeholders.
10. The test for an extension of time under Section 50.4(9) of the BIA is met, because:

- a) the Companies intend to continue discussions with their stakeholders and are likely to be able to make a viable proposal to their creditors if the extension requested is granted;
 - b) the Companies have acted, and are acting, in good faith; and
 - c) no creditor will be materially prejudiced if the extension requested is granted.
11. The Proposal Trustee supports the extension sought.
12. The Companies are unaware of any opposition, including from Royal Bank of Canada, which is the ranking secured creditor.

Further Grounds

13. Rules 1.04(1), 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194;
14. the BIA including section 50.4;
15. the inherent jurisdiction of this Court; and
16. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

17. the Affidavit of Terrence Stanley David Scott sworn June 6, 2023;
18. the Second Report of the Proposal Trustee, to be filed; and

19. such further and other evidence as counsel may advise and this Honourable Court may permit.

June 6, 2023

RECONSTRUCT LLP

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**Lawyers for the Companies,
Prosysco Ltd. and 1110615 Ontario Ltd.**

TO: **THE SERVICE LIST**

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF MISSISSAUGA IN
THE PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.**

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

Proceedings commenced at Toronto

NOTICE OF MOTION

RECONSTRUCT LLP

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**Lawyers for the Companies,
Prosysco Ltd. and 1110615 Ontario Ltd.**

TAB 2

Court File No. BK-23-02929201-0032
Estate No. 32-2929201

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND*
***INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF PROSYSCO LIMITED OF THE CITY OF
MISSISSAUGA IN THE PROVINCE OF ONTARIO

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.

AFFIDAVIT OF TERRENCE STANLEY DAVID SCOTT
(Sworn June 6, 2023)

I, **TERRENCE STANLEY DAVID SCOTT** of the City of Toronto, in the province of Ontario, **MAKE OATH AND SAY:**

1. I am the acting President of Prosysco Ltd. (“**Prosysco**”). 1110615 Ontario Ltd. (“**111 Ontario**”) is the parent company of Prosysco. Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. On April 1, 2023, Prosysco and 111 Ontario (collectively, the “**Companies**”) each filed a Notice of Intention to Make a Proposal (each an “**NOI**”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). Albert Gelman Inc. was appointed as proposal trustee under

the BIA (the “**Proposal Trustee**”). The NOI of Prosysco and the NOI of 111 Ontario are attached as **Exhibit “A”** and **Exhibit “B”** respectively.

3. This affidavit is submitted in support of the Companies’ motion for an order that, among other things,

(a) extends the time for the filing of a proposal for a period of 45 days up to and including July 31, 2023; and

(b) approves the professional fees and disbursements of the Proposal Trustee and its counsel.

4. I understand from the Proposal Trustee that it is supportive of the requested relief.

5. I am unaware of any opposition to the requested relief including by the Companies’ primary secured lender, Royal Bank of Canada (“**RBC**”).

I. BACKGROUND

6. Established in 1988, Prosysco is a manufacturer, designer and supplier of highly specialized engineering process solutions targeting the biotech, pharmaceutical, food, beverage, and dairy industries. Prosysco is the only supplier in Canada capable of providing a full spectrum of design / build / installation / commissioning services for high purity process equipment required for vaccine production.

7. 111 Ontario is Prosysco’s parent company that controls 80% of the outstanding shares of Prosysco. 111 Ontario is a holding company that does not conduct business or have any employees.

8. Commencing in and around 2018, Prosysco experienced rapid growth in its business. As a result of the rapid growth, Prosysco found it increasingly challenging to maintain sufficient cash flow to pay for its expenses needed to grow and deliver its products and services, as well as capitalize the initial stages of its growing number of ongoing projects.

9. In response to Prosysco's cash flow challenges, Prosysco increased its borrowing limit under its credit facility with RBC and temporarily deferred approximately \$1.6 million in source deduction payments to the Canada Revenue Agency ("**CRA**").

10. After RBC learned of the source deduction arrears, it sent Prosysco a Notice of Intention to Enforce Security under s. 244 of the BIA. As a result, on April 1, 2023, the Companies commenced these NOI proceedings to, among other things,

- (a) obtain the breathing room necessary to deal with its obligations in an organized manner and to negotiate go-forward arrangements with its key stakeholders;
- (b) address the operational and financial inefficiencies resulting from the rapid expansion of the business;
- (c) explore possible refinancing to allow Prosysco to continue operating as a going concern for the value for its numerous stakeholders;
- (d) avoid the loss of the significant value of Prosysco's assets that are currently tied up as a result of "work in progress", which would be lost in a bankruptcy or liquidation; and
- (e) develop a proposal for its unsecured creditors.

11. A more comprehensive description of the Companies' assets and the steps that led to the NOI proceedings is available in my affidavit sworn for the first motion seeking to extend the time to file a proposal. That affidavit (without the exhibits) is attached as **Exhibit "C"**.

12. On April 24, 2023, the Honourable Madam Justice Conway granted an order (the "**Initial Order**") that, among other things:

- (a) administratively consolidated the NOI proceedings commenced by the Companies; and
- (b) extended the time to file a proposal for forty-five days up to and including June 14, 2023.

The Initial Order is attached hereto as **Exhibit "D"**.

II. ACTIVITIES SINCE APRIL 24, 2023

13. Since the Companies were last before the Court on April 24, 2023, the Companies have:

- (a) collected approximately \$1.8 million in outstanding accounts receivable owed to Prosysco and a total of \$3.7 million since April 1, 2023;
- (b) stayed current with government obligations, including in respect of source deductions and HST;
- (c) implemented cost saving measures including disclaiming various contracts and leases;
- (d) considered and enacted operational changes;

- (e) explored possible refinancing options as well as other restructuring options; and
- (f) continued operating the business under the supervision of the Proposal Trustee.

14. Furthermore, since the last Court hearing, I have focused resources on improving and delivering Prosysco's financial reporting, including the financial statements for its fiscal years ending February 28, 2022 and 2023. My training is in accounting and I hold CPA and CMA designations. We have improved the approach in which revenues are recognized on Prosysco's books to better match them to the actual direct costs and operating expenses/activities required to earn these revenues. We have also separated operating expenses from capital expenditures. As a result, the February 2022 financial statements are now complete and have been subject to a compilation engagement by Prosysco's former accountants. The February 2023 financial statements have been completed by management and are now being reviewed by Prosysco's new accountants, MNP LLP. The 2022 financial statements appear to have required a significant number of non-recurring and prior period adjustments, which decreased the reported financial performance, however the current management-prepared 2023 statements accurately represent Prosysco's profitable operations on a Net Income basis.

15. Prosysco has also received new orders and requests for quotes from both new and existing customers since the commencement of these proceedings.

16. The combination of new customer orders and profitability in the most recent management-prepared financial statements supports a going-concern approach to restructuring.

A. Disclaimers

17. On April 23, 2023, Prosysco's counsel, Reconstruct LLP, sent a notice of disclaimer to the landlord of its head corporate office located at 8 Prologis Boulevard (units 103 and 400). As part of its restructuring plan, Prosysco has determined that the leased space at 8 Prologis Boulevard was causing and would likely continue to cause it significant financial hardship, because the operations conducted there could be accommodated at Prosysco's other leased premises where manufacturing operations take place. Attached hereto and marked as **Exhibit "E"** is a copy of the notice of disclaimer dated April 24, 2023.

18. On May 17, 2023, the Proposal Trustee, on behalf of Prosysco, also sent notices of disclaimer to various parties including to:

- (a) Catalyst Finance Partners Inc. in regard to a lease for furniture (**Exhibit "F"**);
- (b) De Lage Landen Financial Services Canada Inc. in regard to equipment leases (**Exhibit "G"**);
- (c) Meridian OneCap Credit Corp. in regard to an equipment contract (**Exhibit "H"**);
- (d) RBC in regard to a lease for office furniture (**Exhibit "I"**).

19. Following discussions with RBC and consultation with Prosysco's counsel, the Proposal Trustee, and counsel for the Proposal Trustee, Prosysco has determined that the disclaimer sent to RBC should be rescinded. This is because the general security agreement held by RBC will secure any deficiencies in the lease that would otherwise have been disclaimed, with the result that there is no material benefit to Prosysco. The Companies intend

to work collaboratively with RBC to arrange for disposal of the office furniture, because it is no longer needed, and also to address the amounts owing for that lease.

B. Decrease in the Amount of Indebtedness

20. Prosysco is in a good cash position at present, and if that persists then it is considering making a payment in the coming weeks to the CRA to reduce its source deduction arrears. Accordingly, the Companies may seek the Court's approval to make such payment following consultation with RBC prior to the motion.

C. Exploration of Strategic Transactions

21. Since the Initial Order, the Companies have been working with its advisors to explore various options to refinance and/or restructure its business. As part of that exploration process, the Companies are discussing possible strategic transactions (sale / invest / loan) with numerous parties. The Companies are optimistic that these discussions will lead to a viable strategic transaction that will assist with maintaining the going concern nature of the Companies for the benefit of their stakeholders through a proposal.

III. EXTENSION OF TIME TO FILE A PROPOSAL

22. Based on the Initial Order, the Companies have until June 14, 2023 to file a proposal unless they obtain an extension of time prior to that date to file a proposal.

23. The 45-day extension of the time to file a proposal is requested to allow the Companies to, among other things, maintain stability of its operations, implement further operational changes, continue exploring refinancing and restructuring options, and develop a viable proposal to its creditors.

24. I believe that an extension will facilitate a proposal and will, to the extent possible, preserve value for the benefit of creditors.

25. If the extension is not granted, the Companies will be unable to present a proposal to their creditors and will face a shutdown of operations and liquidation of assets, which I believe would be detrimental to the Companies' stakeholders. I believe that the Companies' greatest value is as a going concern and that a bankruptcy and resulting liquidation would be prejudicial to its stakeholders and all its creditors.

26. The Companies have been acting and continue to act in good faith and with due diligence in these NOI proceedings. I am not aware of any creditor that will be materially prejudiced by the extension of the time to file a proposal. In particular, as noted above the Companies' financial position is not deteriorating and is stable or, in fact, improving as a result of the expense reduction measures noted.

27. I swear this affidavit in support of the Companies' motion for the relief requested, and for no other or improper purpose.

SWORN REMOTELY by)
TERRENCE STANLEY DAVID)
SCOTT stated as being located in the)
 City of Toronto in the Province of)
 Ontario before me at the City of Toronto,)
 in the Province of Ontario this 6th day of)
 June 2023, in accordance with O. Reg)
 431/20, *Administering Oath or*)
Declaration Remotely.)
)
)

DocuSigned by:

Jessica Wuthmann

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A Commissioner for taking Affidavits.
 Jessica Wuthmann (LSO#72442W)

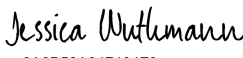
DocuSigned by:

TS David Scott

DEF2E48AE5C1422

TERRENCE STANLEY DAVID SCOTT

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:

3A2B52A947404F3...

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Mississauga
Court No. 32-2929201
Estate No. 32-2929201

In the Matter of the Notice of Intention to make a proposal of:

Prosysco Ltd.

Insolvent Person

ALBERT GELMAN INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

April 01, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: April 03, 2023, 12:37

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902

Canada

THIS IS **EXHIBIT “B”** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:

Jessica Wuthmann

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A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Mississauga
Court No. 32-2929202, 32-2929201
Estate No. 32-2929202, 32-2929201

In the Matter of the Notice of Intention to make a proposal of:

1110615 Ontario Ltd.

Prosysco Ltd.

Insolvent Person

ALBERT GELMAN INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

April 01, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: April 03, 2023, 12:40

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902

Canada

THIS IS **EXHIBIT “C”** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:
Jessica Wuthmann
3A2B52A947404F3...

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)

Court File No. BK-23-02929202-0032
Estate No. 32-2929202

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

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF 1110615 ONTARIO LTD. OF THE CITY
OF MISSISSAUGA IN THE PROVINCE OF ONTARIO**

AFFIDAVIT OF TERRENCE STANLEY DAVID SCOTT
(Sworn April 18, 2023)

I, TERRENCE STANLEY DAVID SCOTT of the City of Toronto, in the province of Ontario, **MAKE OATH AND SAY:**

1. I am the acting President of Prosysco Ltd. (“**Prosysco**”). 1110615 Ontario Ltd. (“**111 Ontario**”) is the parent company of Prosysco. Accordingly, I have personal knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. On April 1, 2023, Prosysco and 111 Ontario (collectively, the “**Applicants**”) each filed a Notice of Intention to Make a Proposal (each an “**NOI**”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). Albert Gelman Inc. was appointed as proposal trustee under the BIA (the “**Proposal Trustee**”).

3. This affidavit is submitted in support of the Applicants’ motion for an Order that, among other things,

- (a) extends the time for the filing of a proposal and extends the stay of proceedings for a period of 45 days up to and including June 14, 2023; and
- (b) administratively consolidates the two NOI proceedings commenced by the Applicants.

I. OVERVIEW OF PROSYSCO'S BUSINESS OPERATIONS

A. Overview of the Business

- 4. Established in 1988, Prosysco is a manufacturer, designer and supplier of highly specialized engineering process solutions targeting the biotech, pharmaceutical, food, beverage and dairy industries. Prosysco is the only supplier in Canada capable of providing a full spectrum of design / build / installation / commissioning services for high purity process equipment required for vaccine production.
- 5. Prosysco currently has 62 employees.
- 6. 111 Ontario is Prosysco's parent company that controls 80% of the outstanding shares of Prosysco. 111 Ontario is a holding company that does not conduct business or have any employees.

B. Nature of the Business' Financial Cycle

- 7. Prosysco's business is performed on a "project-by-project" basis. Since a large portion of the payment from a buyer is not usually received until the project is complete, which may be months or years after the project commences, Prosysco often needs to finance some of the costs required to fulfill projects to completion. Upon receipt of final payment from the

customer, Prosysco recovers all expenses required to complete the project in addition to the profit for that project. Accordingly, Prosysco's projects have almost always been profitable.

8. The upfront costs of each project can be significant as projects often involve sophisticated engineering resources to create, and/or review/validate project drawings, specifications, and plans. Furthermore, typical projects include the fabrication of raw materials including high-quality stainless-steel plates/sheets and tubing as well as the purchase of specialized components such as valves, pumps, heat exchangers, sensors and transmitters. Projects often entail the requirement for Prosysco to design and build custom power supply panels and Human Machine Interface (HMI) control panels.

9. Prosysco has historically received financing in the form of a credit facility from its secured lender, Royal Bank of Canada ("**RBC**"), to cover the expenses required to design and build these projects until final payments from customers are received sometime after project completion.

C. Difficulties Experienced from the Growth of the Business

10. I am advised by Dmitry Puzhitsky ("**Mr. Puzhitsky**"), the Senior Vice President of Prosysco, that, commencing in and around 2018, Prosysco experienced rapid growth in its business. In fact, between 2017 and 2020, Prosysco's sales grew from approximately \$4.9 million per annum to approximately \$14 million per annum, or an increase of approximately 280%.

11. I am advised by Mr. Puzhitsky that, as a result of Prosysco's rapid growth, Prosysco found it increasingly challenging to maintain sufficient cash-flow to pay for its expenses

needed to grow and deliver its products and services, as well as capitalize the initial stages of its growing number of ongoing projects.

12. In seeking a solution to its cash-flow challenges, I am advised by Mr. Puzhitsky that Prosysco approached RBC for an increase in its borrowing limit. Between 2018 to 2021, RBC agreed to increase Prosysco's borrowing limit four times from \$1 million to \$3 million. Copies of these four RBC loan agreements are attached as **Exhibit "A"** hereto.

13. Each of these RBC loan agreements included a reporting requirement for Prosysco to provide "annual review engagement financial statements". This is a heightened level of reporting compared to the "notice to reader" financial statements that Prosysco had previously provided for approximately 10 years, or more.

14. I am advised by Mr. Puzhitsky that RBC did not insist on the requirement for "annual review engagement financial statements" and accepted "annual notice to reader financial statement" for the periods prior to fiscal year ending February 2022. On or about July 19, 2022, Mr. Puzhitsky first became aware that RBC was insisting on the requirement for annual "review engagement" financial statements for the fiscal year period ending February 2022.

15. I am advised by Mr. Puzhitsky that the preparation of financial statements on the heightened "review engagement" standard for the fiscal year ending February 2022 was delayed by a number of factors. Some of those factors appear to be a result of:

- (a) the significantly more detailed work required by Prosysco's third-party auditor, Norton McMullen;

- (b) Norton McMullen was the sole professional accounting firm utilized by Prosysco, since at least 2013, Norton McMullen provided accounting support and tax advice to Prosysco including annual “notice to reader” audits of its financial statements. Although Prosysco’s engineering services, manufactured goods and field installation services were delivered with sophisticated controls and quality standards, the company’s financial management and accounting standards were lacking the same level of sophistication. Management erroneously believed that their financial and accounting needs were sufficient to support the company’s rapid growth, especially since a third-party accounting firm was engaged in supporting this function. When the company first became aware of the need to provide RBC with the increased audit standard “review engagement” financial reports, the company did not have a qualified/trained accountant or bookkeeper in their direct employ; and
- (c) Prosysco’s management was unable to respond as quickly as it should have to requests for new information or documentation from Norton McMullen.

16. Due to the delays in preparing the February 2022 financial statements, the necessary financial statements were not ready by the end of February of 2023.

17. I am advised by Mr. Puzhitsky that, in response to Prosysco’s cash flow challenges, Prosysco’s management also decided to temporarily defer payments to the Canada Revenue Agency (“CRA”) of source deductions and collected HST. The unpaid source deductions accumulated to approximately \$1.64 million. Prosysco also accumulated unremitted HST in the approximate amount of \$700,000, which has since been repaid.

18. On February 23, 2023, my employer, the Osborne Group, assigned me on contract to work with Prosysco as their Interim Vice President of Finance. The primary purpose of my engagement is to resolve the systemic accounting challenges that contributed to Prosysco's difficulties in producing financial statements to a "review engagement" standard.

19. On or about February 27, 2023, I attended a meeting with RBC wherein RBC advised that it was assigning Prosysco's account into its Special Loans account management unit. RBC later confirmed that the Applicants' accounts were being reassigned to special loans in a letter date March 8, 2023. A copy of the March 2023 letter is attached as **Exhibit "B"**.

D. Enforcement Steps by RBC

20. After RBC learned of the source deduction arrears, it sent Prosysco a Notice of Intention to Enforce Security under s. 244 of the BIA. A copy of the Notice of Intention to Enforce Security is attached as **Exhibit "C"**.

21. Prosysco and RBC engaged in discussions in an attempt to arrive at informal restructuring arrangements, but those discussions were ultimately unsuccessful.

22. As a result, on April 1, 2023, the Applicants commenced these NOI proceedings to, among other things,

- (a) obtain the breathing room necessary to deal with its obligations in an organized manner and to negotiate go-forward arrangements with its key stakeholders;
- (b) address the operational and financial inefficiencies resulting from the rapid expansion of the business;

- (c) explore possible refinancing to allow Prosysco to continue as a going concern for the value for its numerous stakeholders;
- (d) avoid the loss of the significant value of Prosysco's assets that are currently tied up as a result of "work in progress", which would be lost in a bankruptcy or liquidation; and
- (e) develop a proposal for its unsecured creditors.

E. The Applicants' Corporate Structure

23. Prosysco is an Ontario corporation incorporated pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 (Ontario) (the "**OBCA**"). Prosysco's registered head office is located at 360 Ambassador Drive, Mississauga, Ontario, L5T 2J3. A copy of the Corporate Profile Report for Prosysco is attached as **Exhibit "D"**.

24. The sole director of Prosysco was Paul Chimko ("**Paul**"). However, as a result of Paul's sudden death on April 6, 2023, Prosysco's shareholders appointed Alan Chimko ("**Alan**") - Paul's father and a founding member of Prosysco - as the new sole director of Prosysco.

25. 111 Ontario is an Ontario corporation incorporated pursuant to the OBCA. 111 Ontario's registered head office is located at 6101 Netherhart Road, Mississauga, Ontario, L5T 1G5. Paul and Alan, through themselves and a corporate entity, are the shareholders of 111 Ontario. Alan is 111 Ontario's sole director. A copy of the Corporate Profile Report for 111 Ontario is attached as **Exhibit "E"**.

26. 111 Ontario is the majority shareholder of Prosysco. Adam Kurtz, the Vice President of Operations of Prosysco, and Mr. Puzhitsky are the two minority shareholders of Prosysco. A copy of the corporate structure of the Applicants is attached as **Exhibit “F”**.

II. The Applicants’ Assets and Liabilities

A. Assets

27. Based on the books and records of the Applicants, on a consolidated basis, they currently hold assets of approximately \$3,653,064, including approximately \$890,000 of cash and approximately \$2,763,064 in accounts receivable as at April 14, 2023.

B. Indebtedness

28. Based on the books and records of the Applicants, they have current liabilities of approximately \$7,771,606.

Secured Obligations

29. RBC is Prosysco’s primary secured lender. Pursuant to various secured facilities, Prosysco owes RBC approximately CAD \$2,500,000.00 and USD \$300,000.00 (plus costs) as of April 14, 2023.

30. 111 Ontario is a guarantor of Prosysco’s RBC loans to the maximum limit of \$820,000 (plus interest and costs of enforcement). A copy of the Guarantee executed by 111 Ontario is attached as **Exhibit “G”**.

31. Paul’s estate and Alan are also joint and several personal guarantors of Prosysco’s RBC loans up to the maximum amount of \$700,000 (plus interest and costs of enforcement).

32. RBC has withdrawn the credit facility that supports Prosysco's business operations. Accordingly, the Applicants are operating without the use of its RBC credit facility during these restructuring proceedings.

33. In addition, the Personal Property Security System indicates that there are number of additional security interests registered against the Applicants including by Atco Structures & Logistics Ltd., Bercon Rentals Inc., CWB National Leasing Inc., Meridian Onecap Credit Corp., Vault Credit Corporation, BMW Canada Inc., Toyota Credit Canada Inc., Honda Canada Finance Inc., The Bank of Nova Scotia, Ford Credit Canada Company, De Lage Landen Financial Services Canada Inc., and Echelon Insurance. A copy of the search results for Prosysco and 111 Ontario from the Personal Property Security System are attached as **Exhibit "H"** and **Exhibit "I"** respectively.

Priority Obligations

34. Prosysco is current with its harmonized sales tax (HST) filings with the CRA up to April 18, 2023. I note that 111 Ontario has no operations requiring an HST number and therefore has no HST reporting obligations.

35. I am not aware of any arrears of payroll other than wages which accrue in the normal course between bi-weekly pay periods, and vacation pay, which is accrued. Prosysco intends to continue to meet payroll in the usual course.

36. Prosysco's source deductions are in arrears in the amount of approximately \$1.630 million (inclusive of interest and penalties) as of April 18, 2023.

Lease Obligations

37. Prosysco leases four commercial spaces for the operation of its business: 360 and 380 Ambassador Drive and units 103 and 400 in 8 Prologis Boulevard.

38. Prosysco uses the premises at 360 & 380 Ambassador Drive as manufacturing, assembly, fabrication and testing facilities. Prosysco has no rental arrears for these premises and expects to continue to pay rent in the usual course.

39. Prosysco uses the premises at 8 Prologis Boulevard (units 103 and 400) as its head corporate office. Prosysco owes pre-filing rent arrears of approximately \$184,638.01 for this premises. Prosysco has paid rent for April 2023. As part of its restructuring plan, Prosysco has determined that the leased space at 8 Prologis Boulevard is causing and will likely continue to cause it significant financial hardship. Accordingly, Prosysco is in the process of preparing a Notice of Disclaimer for the leased units at 8 Prologis Boulevard.

Supplier Payments

40. Prosysco has accrued approximately \$1,872,117 in unsecured trade payables. Most of these arrears are in respect of components, materials, and services utilized to support the manufacture and installation of process modules.

III. RELIEF REQUESTED**A. Administrative Consolidation of the NOI Proceedings**

41. The Applicants propose to procedurally consolidate the NOI proceedings to allow Prosysco and 111 Ontario to be dealt with as one matter for purposes of filings with the Court and with the Office of Superintendent of Bankruptcy in order to relieve the administrative

burden of two separate NOI proceedings that have substantial factual overlap. The Applicants are not requesting substantive consolidation of the estates at this time.

B. Stay Extension

42. Under the BIA, the Applicants have until May 1, 2023 to file a proposal unless they obtain an extension of time prior to that date to file a proposal.

43. The 45-day extension of the time to file a proposal is requested to allow the Applicants to, among other things, maintain stability of its operations, consider and implement cost saving measures and operational changes, and explore possible refinancing options as well as other restructuring options.

44. I believe that an extension will facilitate a proposal and will, to the extent possible, preserve value for the benefit of creditors.

45. If the extension is not granted, the Applicants will be unable to present a proposal to their creditors and will face a shutdown of operations and liquidation of assets, which I believe would be detrimental to the Applicants' stakeholders. In particular, I believe that the Applicants' greatest value is as a going concern and that a bankruptcy and resulting liquidation would be prejudicial to its stakeholders and all of its creditors.

46. The Applicants, with the assistance of the Proposal Trustee, have prepared a 12-week cash flow forecast for each of the Applicants for the period from April 9, 2023, to July 1, 2023 (the "**Cash Flow Forecasts**"). A copy of the Prosysco's Cash Flow Forecast is attached as **Exhibit "J"** and 111 Ontario's Cash Flow Forecast is attached as **Exhibit "K"**.

47. The Cash Flow Forecasts demonstrate that the Applicants have the ability to meet their post-filing obligations as they come due through the proposed extension period. No debtor in possession borrowing is contemplated by the Applicants at this time.

48. The Applicants have been acting and continue to act in good faith and with due diligence in these NOI proceedings and I am not aware of any creditor that will be materially prejudiced by the extension of the time to file a proposal.

49. I swear this affidavit in support of the Applicants' motion for the relief requested, and for no other or improper purpose.

SWORN REMOTELY by)
TERRENCE STANLEY DAVID)
SCOTT stated as being located in the)
 City of Toronto in the Province of)
 Ontario before me at the City of Toronto,)
 in the Province of Ontario this 18th day of)
 April 2023, in accordance with O. Reg)
 431/20, *Administering Oath or*)
Declaration Remotely.)
)
)
)

DocuSigned by:

Jessica Wuthmann

3A2B52A947404F3...

A Commissioner for taking Affidavits.
 Jessica Wuthmann (LSO#72442W)

DocuSigned by:

TS David Scott

DEE2E48AE5C1422...

TERRENCE STANLEY DAVID SCOTT

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, RSC 1985, c B-3, AS AMENDED**

Court File No. BK-23-2929202-0032
Estate File No. 32-2929202

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 1110615 ONTARIO LTD. OF THE CITY
OF MISSISSAUGA IN THE PROVINCE OF ONTARIO**

Applicant

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

Proceedings commenced at Toronto

**AFFIDAVIT OF TERRENCE SCOTT
(Sworn April 18, 2023)**

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

R. Brendan Bissell – LSO #: 40354V

Tel: (416) 613-0066

Email: bbissell@reconllp.com

Jessica Wuthmann – LSO #: 72442W

Tel: (416) 613-8288

Email: jwuthmann@reconllp.com

Lawyers for the Applicant

THIS IS **EXHIBIT “D”** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:

Jessica Wuthmann

3A2B52A947404F3

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)

Court File No. BK-23-02929201-0032
Estate No. 32-2929201

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

THE HONOURABLE	)	MONDAY, THE 24 TH
	)	
JUSTICE CONWAY	)	DAY OF APRIL, 2023

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO**

**ORDER
(Re: Administrative Consolidation and Related Relief)**

THIS MOTION made by Prosysco Ltd. (the “**Company**”) for an order, *inter alia*, extending the time to file a proposal for a period of 45 days and administratively consolidating the two NOI Proceedings (as defined below) was heard this day at 330 University Avenue, Toronto, Ontario by video conference.

ON READING the Affidavit of Terrence Scott sworn April 18, 2023, and the First Report of Albert Gelman Inc. in its capacity as proposal trustee (the “**Proposal Trustee**”), and on hearing the submissions of respective counsel for the Company, the Proposal Trustee, the Royal Bank of Canada and such other counsel as were present as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Jessica Wuthmann sworn April 19, 2023, filed:

SERVICE

1. **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.

PROCEDURAL CONSOLIDATION

2. **THIS COURT ORDERS** that, without prejudice to the right of any party to seek or oppose substantive consolidation,

- (a) the present proceeding; and
- (b) the matter of the notice of intention to make a proposal of 1110615 Ontario Ltd. Bankruptcy Court File No. BK-23-02929202-0032 and Estate No. 32-2929202,

(collectively, the “**NOI Proceedings**”)

shall be procedurally consolidated and the Proposal Trustee shall be authorized and directed to administer the NOI Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the *Bankruptcy and Insolvency Act* (the “**BIA**”), including, without limitation, the following:

- (a) sending notices to the creditors of Prosysco Ltd. and 1110615 Ontario Ltd.
(collectively, the “**NOI Entities**”) pursuant to one consolidated notice;
- (b) calling and conducting any meetings of creditors of the NOI Entities pursuant to one combined advertisement and one meeting;

- 3 -

- (c) issuing consolidated reports in respect of the estates of the NOI Entities;
- (d) preparing, filing, advertising and distributing any and all filings and/or notices relating to the administration of the estates of the NOI Entities on a consolidated basis; and
- (e) bringing motions to this Honourable Court on a consolidated basis.

3. **THIS COURT ORDERS** that the NOI Proceedings shall be assigned the single Bankruptcy Court File No. BK-23-02929201-0032 and Estate File Number 32-2929201 (the “**Consolidated Court File**”) and the following title of proceeding:

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LIMITED OF THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.**

4. **THIS COURT ORDERS** that a copy of this Order shall be filed by the NOI Entities in the court file for each of the NOI Proceedings but that any other document required to be filed in any of the NOI Proceedings shall hereafter only be required to be filed in the Consolidated Court File.

5. **THIS COURT ORDERS** that for avoidance of doubt, any motion, application or action, including the herein motion, in respect of the NOI Entities or any of them shall be brought and filed in the Consolidated Court File and if so brought and filed it shall be deemed brought and filed

- 4 -

in each of the NOI Proceedings, as appropriate, without prejudice to any rules of civil procedure or otherwise that are applicable.

6. **THIS COURT ORDERS** that the procedural consolidation of the NOI Proceedings shall not:

- (a) affect the separate legal status and structures of any of the NOI Entities;
- (b) cause any of the NOI Entities to be liable for any claim for which it otherwise is not liable; or
- (c) affect the Proposal Trustee's or a creditor's right to seek to disallow any claim, including on the basis that such claim is a duplicative claim.

EXTENSION OF TIME TO FILE A PROPOSAL

7. **THIS COURT ORDERS** that pursuant to Section 50.4(9) of the BIA, the time for the NOI Entities to file a proposal with the Official Receiver be and is hereby extended up to and including June 14, 2023 (the "**Stay Period**").

CONTINUATION OF SERVICES

8. **THIS COURT ORDERS** that during the Stay Period, all persons having oral or written agreements with the NOI Entities or statutory or regulatory mandates for the supply of goods and/or services 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 NOI Entities, provided in each case that the normal prices or charges for such goods or services received after the date of this Order are paid by the NOI Entities in accordance with normal payment

practices of the NOI Entities or other practices as may be agreed upon by the supplier or service provider and each of the NOI Entities and the Proposal Trustee, or as may be ordered by this Court.

9. **THIS COURT ORDERS** that the First Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved; provided, however, that only the Proposal Trustee, 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.

GENERAL

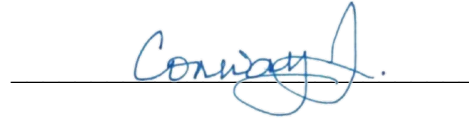
10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the NOI Entities, the Proposal Trustee and their respective agents in carrying out the 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 NOI Entities and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the NOI Entities and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

11. **THIS COURT ORDERS** that any interested party (including the NOI Entities and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

12. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an

- 6 -

appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a solid horizontal line.

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

Court File No. BK-23-02929201-0032
Estate File No. 32-2929201

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF TORONTO IN
THE PROVINCE OF ONTARIO**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

RECONSTRUCT LLP
Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

R. Brendan Bissell LSO No. 40354V
bbissell@reconllp.com
Tel: 416.613.0066

Jessica Wuthmann LSO No. 72442W
jwuthmann@reconllp.com
Tel: 416.613.8288

**Lawyers for Prosysco Ltd and 1110615
Ontario Ltd.**

THIS IS **EXHIBIT “E”** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:
Jessica Wuthmann
3A2B52A947404F3...

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



Jessica Wuthmann
Counsel
T: +1.416.613.8288
F: +1.416.613.8290
E: jwuthmann@reconllp.com
W: reconllp.com

April 24, 2023

SENT BY EMAIL & COURIER

THE LANDLORD

c/o Triovest Realty Advisors Inc.
5750 Explorer Drive, Suite 402
Mississauga, ON L4W 0A9.
Attention: Property Manager

TRIOVEST REALTY ADVISORS INC.,

40 University Avenue, Suite 1200
Toronto, ON M5J 1T1
Attention: EVP Commercial Central Region

Re: In the Matter of the Notice of Intention to Make a Proposal of Prosysco Ltd.

Please be advised that Prosysco Ltd. (the “**Debtor**”) filed a notice of intention to make a proposal pursuant to section 50.4 the *Bankruptcy and Insolvency Act* (Canada) on April 1, 2023 and that Albert Gelman Inc. was appointed as Proposal Trustee

As part of its restructuring proceedings the Debtor has decided to disclaim or resiliate several of its contractual agreements. In this regard, please find enclosed the following:

- Form 45 – Notice to Lessor to Disclaim or Resiliate a Lease by Commercial Tenant

Please feel free to contact the undersigned to discuss this notice if you have any questions.

Yours truly,

RECONSTRUCT LLP

Jessica Wuthmann
JW/lr

District of: Ontario
Division No.: 09 – Mississauga
Court No.: 32-2929201
Estate No.: 32-2929201

FORM 45

Notice to Lessor to Disclaim or Resiliate a Lease by Commercial Tenant
(Section 65.2(1) of the Act; Rule 95)

In the matter of the notice of intention to make a proposal of
Prosysco Ltd.
of the City of Mississauga, in the Province of Ontario

To: HOOPP Realty Inc. (the “**Lessor**”)

Take notice that:

1. A notice of intention to make a proposal in respect of the undersigned commercial lessee was filed under subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) on the 1st day of April 2023.
2. Pursuant to subsection 65.2(1) of the Act, the commercial lessee hereby gives you, the Lessor, 37 days’ notice of its disclaimer or resiliation of the lease dated May 28, 2021 (and subsequently amended by lease amending agreements dated December 8, 2021 and September 14, 2022), which lease granted possession of the property situated at 8 Prologis Blvd., Mississauga, Ontario, Suites 103 and 400.
3. The disclaimer or resiliation of the lease will become effective on May 31, 2023 being 37 days from the date of this notice.
4. You may apply to the Court, within 15 days after the day on which you are given this notice, for a declaration that subsection 65.2(1) of the Act does not apply in respect of the lease mentioned above.
5. If you make such an application, the court, on notice to such parties as it may direct, shall make such a declaration unless the commercial lessee satisfies the court that the lessee would not be able to make a viable proposal, without its disclaimer or resiliation of the lease and all other leases that the lessee has disclaimed or has resiliated under subsection 65.2(1) of the Act.

Dated at Mississauga, Ontario this 24th day of April 2023

Prosysco Ltd.
Per: Terrence Scott

THIS IS **EXHIBIT "F"** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:


3A2B52A947404F3

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



May 17, 2023

Tom McElroy
Direct: 416-504-1650 ext. 117
tmcelroy@albertgelman.com

VIA COURIER AND ELECTRONIC MAIL

Catalyst Finance Partners Inc.
200-4145 North Service Rd.
Burlington, ON L7L 6A3
ATTN: Jo-Anne Bailey

Dear Sirs:

Re: In the Matter of the Notice of Intention to Make a Proposal of Prosysco Ltd.

Please be advised that Prosysco Ltd. (the "Debtor") filed a notice of intention to make a proposal pursuant to section 50.4 the *Bankruptcy and Insolvency Act* (Canada) on April 1, 2023 and that Albert Gelman Inc. was appointed as Proposal Trustee

As part of its restructuring proceedings the Debtor has decided to disclaim or resiliate several of its contractual agreements. In this regard, please find enclosed the following:

- Form 44.1 – Notice by Debtor to Disclaim or Resiliate an Agreement

Please feel free to contact the undersigned to discuss this notice if you have any questions.

Yours very truly,

**ALBERT GELMAN INC., solely in its
capacity as Trustee in re the Proposal of
Prosysco Ltd. and not in its personal capacity**

Per:

A handwritten signature in blue ink, appearing to be "T. McElroy".

Tom McElroy, CPA, CA, CBV, CIRP, LIT

District of: Ontario
Division No.: 09 – Mississauga
Court No.: 32-2929201
Estate No.: 32-2929201

FORM 44.1

Notice by Debtor to Disclaim or Resiliate an Agreement
(Section 65.11 of the Act; Rule 94.1)

In the matter of the proposal of
Prosysco Ltd.
of the City of Mississauga, in the Province of Ontario

To: Catalyst Finance Partners Inc. (the "**Lessor**")

-and-

To: Albert Gelman Inc., in its capacity as Trustee of the Proposal of Prosysco Ltd. (the "**Proposal Trustee**")

-and-

To: Prosysco Ltd. (the "**Debtor**")

Take notice that:

1. A notice of intention to make a proposal in respect of Prosysco Ltd. was filed under subsection 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the "**Act**") on the 1st day of April 2023.
2. Pursuant to subsection 65.11(1) of the Act, the Debtor gives you notice of its intention to disclaim or resiliate the following agreement:

All agreements between the Debtor and the Lessor, including but not limited to the following:
 - Lease Contract No. 650424 dated September 27, 2021
3. Pursuant to subsection 65.11(3) of the Act, within 15 days after the date on which this notice is given, any party to the agreement may, with notice to the other parties to the agreement and the Proposal Trustee, apply to the Court for an order that the agreement is not to be disclaimed or resiliated.
4. Pursuant to subsection 65.11(6) of the Act, if no application for an order is made in accordance with subsection 65.11(3) of the Act, the disclaimer or resiliation of the agreement will become effective on the 17th day of June 2023 (being 30 days after the date on which this notice has been given).

Dated at Mississauga, Ontario this 17th day of May 2023



Prosysco Ltd.
Per: Terrence Scott

The Proposal Trustee approves the proposed disclaimer or resiliation

Dated at Toronto, Ontario this 17th day of May 2023



Albert Gelman Inc., Licensed Insolvency Trustee
Per: Tom McElroy

THIS IS **EXHIBIT “G”** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:
Jessica Wuthmann
3A2B52A947404F3...

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



May 17, 2023

Tom McElroy

Direct: 416-504-1650 ext. 117

tmcclroy@albertgelman.com

VIA COURIER AND ELECTRONIC MAIL

De Lage Landen Financial Services Canada Inc.
Portfolio Services
Collection Department
5046 Mainway, Unit 1
Burlington, ON L7L 5Z1

ATTN: Judy Spence

Dear Sirs:

Re: In the Matter of the Notice of Intention to Make a Proposal of Prosysco Ltd.

Please be advised that Prosysco Ltd. (the "Debtor") filed a notice of intention to make a proposal pursuant to section 50.4 the *Bankruptcy and Insolvency Act* (Canada) on April 1, 2023 and that Albert Gelman Inc. was appointed as Proposal Trustee

As part of its restructuring proceedings the Debtor has decided to disclaim or resiliate several of its contractual agreements. In this regard, please find enclosed the following:

- Form 44.1 – Notice by Debtor to Disclaim or Resiliate an Agreement

Please feel free to contact the undersigned to discuss this notice if you have any questions.

Yours very truly,

**ALBERT GELMAN INC., solely in its
capacity as Trustee in re the Proposal of
Prosysco Ltd. and not in its personal capacity**

Per:

A handwritten signature in blue ink, appearing to be "T. McElroy".

Tom McElroy, CPA, CA, CBV, CIRP, LIT

District of: Ontario
Division No.: 09 – Mississauga
Court No.: 32-2929201
Estate No.: 32-2929201

FORM 44.1

Notice by Debtor to Disclaim or Resiliate an Agreement
(Section 65.11 of the Act; Rule 94.1)

In the matter of the proposal of
Prosysco Ltd.
of the City of Mississauga, in the Province of Ontario

To: De Lage Landen Financial Services Canada Inc. (the “**Lessor**”)

-and-

To: Albert Gelman Inc., in its capacity as Trustee of the Proposal of Prosysco Ltd. (the “**Proposal Trustee**”)

-and-

To: Prosysco Ltd. (the “**Debtor**”)

Take notice that:

1. A notice of intention to make a proposal in respect of Prosysco Ltd. was filed under subsection 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) on the 1st day of April 2023.
2. Pursuant to subsection 65.11(1) of the Act, the Debtor gives you notice of its intention to disclaim or resiliate the following agreement:

All agreements between the Debtor and the Lessor, including but not limited to the following:

- Lease Contract 001-0257459-000 – C for equipment location:
103-8 Prologis Blvd Mississauga ON L5W 0G9
 - Lease Contract 001-0285270-000 dated July 6, 2022 for equipment location:
400-8 Prologis Blvd Mississauga ON L5W 0G9
3. Pursuant to subsection 65.11(3) of the Act, within 15 days after the date on which this notice is given, any party to the agreement may, with notice to the other parties to the agreement and the Proposal Trustee, apply to the Court for an order that the agreement is not to be disclaimed or resiliated.
 4. Pursuant to subsection 65.11(6) of the Act, if no application for an order is made in accordance with subsection 65.11(3) of the Act, the disclaimer or resiliation of the agreement will become effective on the 17th day of June 2023 (being 30 days after the date on which this notice has been given).

Dated at Mississauga, Ontario this 17th day of May 2023



Prosysco Ltd.
Per: Terrence Scott

The Proposal Trustee approves the proposed disclaimer or reciliation

Dated at Toronto, Ontario this 17th day of May 2023



Albert Gelman Inc., Licensed Insolvency Trustee
Per: Tom McElroy

THIS IS **EXHIBIT “H”** REFERRED TO IN THE
AFFIDAVIT OF **ERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:
Jessica Wuthmann
3A2B52A947404F3...

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



May 17, 2023

Tom McElroy

Direct: 416-504-1650 ext. 117

tmcelroy@albertgelman.com

VIA COURIER AND ELECTRONIC MAIL

Meridian OneCap Credit Corp.
204-3185 Willington Green,
Burnaby, BC V5G 4P3

ATTN.: Skyla Halbert

Dear Sirs:

Re: In the Matter of the Notice of Intention to Make a Proposal of Prosysco Ltd.

Please be advised that Prosysco Ltd. (the "Debtor") filed a notice of intention to make a proposal pursuant to section 50.4 the *Bankruptcy and Insolvency Act* (Canada) on April 1, 2023 and that Albert Gelman Inc. was appointed as Proposal Trustee

As part of its restructuring proceedings the Debtor has decided to disclaim or resiliate several of its contractual agreements. In this regard, please find enclosed the following:

- Form 44.1 – Notice by Debtor to Disclaim or Resiliate an Agreement

Please feel free to contact the undersigned to discuss this notice if you have any questions.

Yours very truly,

**ALBERT GELMAN INC., solely in its
capacity as Trustee in re the Proposal of
Prosysco Ltd. and not in its personal capacity**

Per:

A blue ink signature of Tom McElroy.

Tom McElroy, CPA, CA, CBV, CIRP, LIT

District of: Ontario
Division No.: 09 – Mississauga
Court No.: 32-2929201
Estate No.: 32-2929201

FORM 44.1

Notice by Debtor to Disclaim or Resiliate an Agreement
(Section 65.11 of the Act; Rule 94.1)

In the matter of the proposal of
Prosysco Ltd.
of the City of Mississauga, in the Province of Ontario

To: Meridian OneCap Credit Corp. (the “**Lessor**”)

-and-

To: Albert Gelman Inc., in its capacity as Trustee of the Proposal of Prosysco Ltd. (the “**Proposal Trustee**”)

-and-

To: Prosysco Ltd. (the “**Debtor**”)

Take notice that:

1. A notice of intention to make a proposal in respect of Prosysco Ltd. was filed under subsection 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) on the 1st day of April 2023.
2. Pursuant to subsection 65.11(1) of the Act, the Debtor gives you notice of its intention to disclaim or resiliate the following agreement:

All agreements between the Debtor and the Lessor, including but not limited to the following:
 - Lease Contract No. 650424
3. Pursuant to subsection 65.11(3) of the Act, within 15 days after the date on which this notice is given, any party to the agreement may, with notice to the other parties to the agreement and the Proposal Trustee, apply to the Court for an order that the agreement is not to be disclaimed or resiliated.
4. Pursuant to subsection 65.11(6) of the Act, if no application for an order is made in accordance with subsection 65.11(3) of the Act, the disclaimer or resiliation of the agreement will become effective on the 17th day of June 2023 (being 30 days after the date on which this notice has been given).

Dated at Mississauga, Ontario this 17th day of May 2023



Prosysco Ltd.
Per: Terrence Scott

The Proposal Trustee approves the proposed disclaimer or resiliation

Dated at Toronto, Ontario this 17th day of May 2023



Albert Gelman Inc., Licensed Insolvency Trustee
Per: Tom McElroy

THIS IS **EXHIBIT "I"** REFERRED TO IN THE
AFFIDAVIT OF **TERRENCE STANLEY DAVID SCOTT**, SWORN
BEFORE ME, THIS 6TH DAY OF JUNE 2023

DocuSigned by:

Jessica Wuthmann

3A2B52A947404F3

A COMMISSIONER FOR TAKING AFFIDAVITS

JESSICA WUTHMANN (LSO# 72442W)



Tom McElroy

Direct: 416-504-1650 ext. 117

tmcelroy@albertgelman.com

May 17, 2023

VIA COURIER AND ELECTRONIC MAIL

Royal Bank of Canada
Leasing Division
5575 North Service Rd, Suite 300
Burlington, ON, L7L 6M1
ATTN: Sylvia Zsidi

Dear Sirs:

Re: In the Matter of the Notice of Intention to Make a Proposal of Prosysco Ltd.

Please be advised that Prosysco Ltd. (the "Debtor") filed a notice of intention to make a proposal pursuant to section 50.4 the *Bankruptcy and Insolvency Act* (Canada) on April 1, 2023 and that Albert Gelman Inc. was appointed as Proposal Trustee

As part of its restructuring proceedings the Debtor has decided to disclaim or resiliate several of its contractual agreements. In this regard, please find enclosed the following:

- Form 44.1 – Notice by Debtor to Disclaim or Resiliate an Agreement

Please feel free to contact the undersigned to discuss this notice if you have any questions.

Yours very truly,

**ALBERT GELMAN INC., solely in its
capacity as Trustee in re the Proposal of
Prosysco Ltd. and not in its personal capacity**

Per:

A blue ink signature of Tom McElroy.

Tom McElroy, CPA, CA, CBV, CIRP, LIT

District of: Ontario
Division No.: 09 – Mississauga
Court No.: 32-2929201
Estate No.: 32-2929201

FORM 44.1

Notice by Debtor to Disclaim or Resiliate an Agreement
(Section 65.11 of the Act; Rule 94.1)

In the matter of the proposal of
Prosysco Ltd.
of the City of Mississauga, in the Province of Ontario

To: Royal Bank of Canada (the “**Lessor**”)

-and-

To: Albert Gelman Inc., in its capacity as Trustee of the Proposal of Prosysco Ltd. (the “**Proposal Trustee**”)

-and-

To: Prosysco Ltd. (the “**Debtor**”)

Take notice that:

1. A notice of intention to make a proposal in respect of Prosysco Ltd. was filed under subsection 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**Act**”) on the 1st day of April 2023.
2. Pursuant to subsection 65.11(1) of the Act, the Debtor gives you notice of its intention to disclaim or resiliate the following agreement:

All lease agreements between the Debtor and the Lessor, including but not limited to the following:
 - Master Leasing Agreement dated as of November 23, 2017
3. Pursuant to subsection 65.11(3) of the Act, within 15 days after the date on which this notice is given, any party to the agreement may, with notice to the other parties to the agreement and the Proposal Trustee, apply to the Court for an order that the agreement is not to be disclaimed or resiliated.
4. Pursuant to subsection 65.11(6) of the Act, if no application for an order is made in accordance with subsection 65.11(3) of the Act, the disclaimer or resiliation of the agreement will become effective on the 17th day of June 2023 (being 30 days after the date on which this notice has been given).

Dated at Mississauga, Ontario this 17th day of May 2023



Prosysco Ltd.
Per: Terrence Scott

The Proposal Trustee approves the proposed disclaimer or resiliation

Dated at Toronto, Ontario this 17th day of May 2023



Albert Gelman Inc., Licensed Insolvency Trustee
Per: Tom McElroy

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
RSC 1985, c B-3, AS AMENDED**

Court File No. BK-23-2929201-0032
Estate File No. 32-2929201

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE
A PROPOSAL OF PROSYSCO LTD. OF THE CITY OF TORONTO IN
THE PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE
A PROPOSAL OF 1110615 ONTARIO LTD.**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

AFFIDAVIT OF TERRENCE SCOTT
(Sworn June 6, 2023)

RECONSTRUCT LLP
Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

R. Brendan Bissell – LSO #: 40354V
Tel: (416) 613-0066
Email: bbissell@reconllp.com

Jessica Wuthmann – LSO #: 72442W
Tel: (416) 613-8288
Email: jwuthmann@reconllp.com

Lawyers for the Companies

TAB 3

Court File No. BK-23-02929201-0032
Estate No. 32-2929201

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

THE HONOURABLE	)	MONDAY, THE 12 TH
	)	
JUSTICE KIMMEL	)	DAY OF JUNE, 2023

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LIMITED OF THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.**

**ORDER
(Re: Extension of Time to File a Proposal)**

THIS MOTION made by Prosysco Ltd. and 1110615 Ontario Ltd. (the “**Companies**”) for an order, *inter alia*, extending the time to file a proposal pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) was heard this day at 330 University Avenue, Toronto, Ontario by video conference.

ON READING the Affidavit of Terrence Scott sworn June 6th, 2023, and the Second Report of Albert Gelman Inc. in its capacity as proposal trustee (the “**Proposal Trustee**”) dated June 6th, 2023 (the “**Second Report**”), including the fee affidavits of [redacted] sworn June 6th, 2023 and of Mario Forte sworn June 2, 2023 (collectively the “**Fee Affidavits**”), and on hearing the

submissions of counsel for the Companies, the Proposal Trustee, and such other counsel as were present as identified on the counsel slip, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Jessica Wuthmann sworn ●, 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.

EXTENSION OF TIME TO FILE A PROPOSAL

2. **THIS COURT ORDERS** that the time for the Companies to file a proposal under Section 50.4 of the BIA is hereby extended to July 31, 2023, which is the first business day after an extension period of 45 days.

APPROVAL OF SECOND REPORT AND FEES

3. **THIS COURT ORDERS** that the Second Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved, provided, however, that only the Proposal Trustee, 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.

4. **THIS COURT APPROVES** the professional fees and disbursements of the Proposal Trustee in the amount of \$● and its counsel in the amount of \$7,328.80 as detailed and set forth in the Fee Affidavits be and hereby are approved.

GENERAL

5. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF PROSYSCO LTD. OF THE CITY OF TORONTO IN THE PROVINCE OF
ONTARIO

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF 1110615 ONTARIO LTD.

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

Proceedings commenced at Toronto

ORDER

RECONSTRUCT LLP
Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

R. Brendan Bissell LSO No. 40354V
bbissell@reconllp.com
Tel: 416.613.0066

Jessica Wuthmann LSO No. 72442W
jwuthmann@reconllp.com
Tel: 416.613.8288

**Lawyers for the Companies,
Prosysco Ltd and 1110615 Ontario Ltd.**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC
1985, c B-3, AS AMENDED**

Court File No. BK-23-2929201-0032
Estate File No. 32-2929201

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF PROSYSCO LTD. OF THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF 1110615 ONTARIO LTD.**

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

Proceedings commenced at Toronto

**MOTION RECORD FOR THE
COMPANIES
(Returnable June 12, 2023)**

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

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Tel: (416) 613-0066

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Tel: (416) 613-8288

Email: jwuthmann@reconllp.com

Lawyers for the Companies