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Authority of Ontario

Ontario

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July 19, 2023

Attn: Milan Crane [milan.crane@am.dynonobel.com](mailto:milan.crane@am.dynonobel.com)  
Tax Director, Risk Manager – Americas  
Dyno Nobel Canada Inc.  
6440 S Millrock Drive, Suite 150  
Salt Lake City UT 84121 USA

and Jennifer Agnew [Jennifer.Agnew@bmkplaw.com](mailto:Jennifer.Agnew@bmkplaw.com)  
Brown Mills Klinck Prezioso LLP  
Richmond-Adelaide Centre, Box17  
130 Adelaide Street West  
Toronto ON M5H 3P5

**Re: Dyno Nobel Canada Inc. Pension Plan – ETI Non Union  
Registration Number 1108125**

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Enclosed, please find the Notice of Intended Decision (NOID) with respect to the above noted registered Pension Plan.

Yours truly,

Mitzi D'Souza  
Administrative Assistant, Pensions

Enclosure

c: John Prezioso, Brown Mills Kninck Prezioso LLP  
c: Preethi Anthonypillai, Financial Services Regulatory Authority of Ontario

**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (the “Act”), subsections 78(1) and 79(3), and other applicable pension standard legislations.

**AND IN THE MATTER OF** Dyno Nobel Canada Inc. Pension Plan - ETI Non-Union., Registration Number 1108125 (the “Plan”).

### **NOTICE OF INTENDED DECISION**

**TO:** Dyno Nobel Canada Inc.  
6440 S Millrock Drive, Suite 150  
Salt Lake City, UT 84121  
USA

Attention: Milan Crane  
Tax Director  
Risk Manager- Americas

*Employer & Applicant*

**AND TO** Brown Mills Klinck Prezioso LLP  
Richmond -Adelaide Centre  
Box 17  
130 Adelaide Street West  
Toronto, ON M5H 3P5

Attention: Jennifer Agnew

*Legal Counsel for the Applicant*

**TAKE NOTICE THAT** pursuant to subsection 78(1) of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Director, Pension Operations, Special Transactions, intends to make an order to consent to the payment, to Dyno Nobel Canada Inc., in the amount of \$856,883 as at January 1, 2021, plus investment earnings thereon to the date of payment, adjusted for expenses. Details of this intended decision are described below.

**SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS**, veuillez nous envoyer votre demande par courriel immédiatement à: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca).

**YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SUBSECTION 89(6) OF THE ACT.** A hearing by the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within

thirty (30) days after this Notice of Intended Decision is served on you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal  
5160 Yonge Street  
14th Floor, Box 85  
Toronto ON M2N 6L9  
Attention: Registrar

Fax: 416-226-7750

Email: [contact@fstontario.ca](mailto:contact@fstontario.ca)

**TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.**

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. The Rules are available at the website of the Tribunal: [www.fstontario.ca](http://www.fstontario.ca). Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294 or toll free at 1-800-668-0128 extension 7294.

## **REASONS FOR INTENDED DECISION**

1. Dyno Nobel Canada Inc. is the employer and administrator of the Plan (the "Employer").
2. The Plan is a single employer, multijurisdictional, pension plan. It is registered under the Ontario Pension Benefits Act since the plurality of Plan members are located in the Province of Ontario.
3. The Plan was fully wound up effective April 30, 2017.
4. As indicated in the Employer's application (the "Application") for payment of surplus, the total surplus in the Plan was estimated to be \$2,160,412 as at January 1, 2021.

5. The Application discloses that a Surplus Sharing Agreement (SSA) has been entered into between the Employer and members, former members, retired members, and other person entitled to payments under the Plan as of April 30, 2017 (collectively the "Plan Beneficiaries").
6. The SSA estimates the surplus in the Plan at the date of payment, after adjustments for investment earnings and expenses, is to be distributed:
  - (a) 60% to the Plan Beneficiaries, subject to a minimum payment of \$1,000;  
and
  - (b) 40% to the Employer
7. The Application and subsequent documents filed by the Employer indicate that the Agreements in paragraph 6 will apply in relation to the surplus attributable to Plan Beneficiaries in respect of employment outside the province of New Brunswick, and, in relation to the surplus attributable to the Plan Beneficiaries in respect of employment in the province of New Brunswick, 100% of such surplus will be distributed to such individuals in the manner described in the Application.
8. The Employer has applied pursuant to sections 77.11(1), 78 and 79(3) of the Act, and other relevant sections of the pension standards legislations of the applicable provinces for consent to the payment of \$856,883, plus investment earnings to the date of payment, adjusted for expenses, to be distributed to the Employer from the Plan.
9. The Application appears to comply with paragraph 77.11(7)(2), section 78, subsection 79(3) and all other applicable requirements under the Act and Regulation 909, R.R.O. 1990, as amended, and complies with the relevant sections of the respective pension standards legislation related to surplus in applicable jurisdictions.

10. Such further and other reasons as may come to my attention.

**DATED** at Toronto, Ontario, July 19, 2023.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

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Tim Thomson  
Director, Pension Operations, Special Transactions  
By delegated authority from the Chief Executive Officer

Copy: John Prezioso, Brown Mills Klinck Prezioso LLP