

**Court File No. CV-11-9159-00CL**

**PRISZM INCOME FUND,  
PRISZM CANADIAN OPERATING TRUST,  
PRISZM INC. AND KIT FINANCE INC.**

**SECOND REPORT OF THE MONITOR  
May 26, 2011**

**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 PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST,  
PRISZM INC. AND KIT FINANCE INC.

**SECOND REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.  
IN ITS CAPACITY AS MONITOR**

**INTRODUCTION**

1. On March 31, 2011, Prizm Income Fund, Prizm Canadian Operating Trust, Prizm Inc. and Kit Finance Inc. (collectively, the “**Applicants**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granting, *inter alia*, a stay of proceedings against the Applicants until April 29, 2011, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The Initial Order also extended the benefits of the protections and authorizations provided by the Initial Order to Prizm LP (together with the Applicants, the “**Prizm Entities**”). The proceedings commenced by the Applicants under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. On April 29, 2011, the Honourable Madam Justice Mesbur granted an amended and restated initial order (the “**Amended Initial Order**”) and granted an order extending the Stay Period to June 30, 2011.
3. The purpose of this, the Monitor’s Second Report, is to inform the Court on the following:
  - (a) The notice of motion filed by Olymel Société en Commandite (“**Olymel**”), a Critical Supplier, returnable on a date to be fixed (the “**Olymel Motion**”);
  - (b) The expiry of the DIP Amendment;
  - (c) The receipts and disbursements of the Prizm Entities for the period April 18 to May 22, 2011;
  - (d) The Prizm Entities’ revised cash flow forecast for the period May 23 to July 3, 2011 (the “**May 24 Forecast**”);
  - (e) The Prizm Entities’ request for approval of the sale of 204 store locations to Soul Restaurants Canada Inc. (“**Soul**”), an affiliate of Soul Foods Group, a U.K. based franchisee of YUM! Restaurants International pursuant to the Amended and Restated Asset Purchase Agreement dated May 17, 2011 between Soul, Prizm LP and Prizm Inc. (the “**Soul APA**”) and for authorization to make certain payments from the proceeds of the transaction contemplated by the Soul APA (the “**Soul Transaction**”) and the Monitor’s recommendation on the foregoing;
  - (f) The Prizm Entities request for approval of the Occupation Agreement and the Transition Services Agreement, each as hereinafter defined, and the Monitor’s recommendation thereon;

- (g) The Prizm Entities request for an Order assigning certain leases to Soul in connection with the Soul Transaction pursuant to section 11.3 of the CCAA (the “**11.3 Motion**”) and the Monitor’s recommendation thereon;
- (h) The Prizm Entities’ request for approval of a marketing process for the business and assets of the Prizm Entities in respect of those locations that are not located in Ontario or British Columbia and are not subject to the Soul Transaction (the “**Marketing Process**”) and the Monitor’s recommendation thereon;
- (i) The Prizm Entities’ request for approval, *nunc pro tunc*, of the engagement of Canaccord Genuity Corporation (“**Canaccord Genuity**”), pursuant to an engagement letter signed February 10, 2011 (the “**Canaccord Genuity Engagement Letter**”) and the Monitor’s recommendation on the foregoing; and
- (j) The Prizm Entities’ request for authority to reallocate certain amounts forfeited on the resignation of participants of the key employee retention plans (the “**KERPs**”) to other KERP participants and for discretionary authority, subject to the prior consent of the Monitor, to utilize amounts forfeited by any future resignations of participants of the KERPs for additional KERP payments and the Monitor’s recommendation on the foregoing.

4. In preparing this report, the Monitor has relied upon unaudited financial information of the Priszm Entities, the Priszm Entities' books and records, certain financial information prepared by the Priszm Entities and discussions with the Priszm Entities' management. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
  
5. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the affidavit of Deborah Papernick, Chief Financial Officer of the Priszm Entities, sworn March 30, 2011, and filed in support of the CCAA application (the "**Papernick Affidavit**"), previous reports of the Monitor, the Amended Initial Order or in the affidavit of Ms. Deborah Papernick sworn May 24, 2011 and filed in support of the Priszm Entities' motion (the "**May 24 Affidavit**"). Copies of Court orders and other materials in respect of the CCAA Proceedings are available on the Monitor's Website at <http://cfcanada.fticonsulting.com/priszm>.

#### **THE OLYMEL MOTION**

6. The Initial Order created the Critical Supplier Charge which ranks in priority to the DIP Lender's Charge, the Director's Charge and the pre-filing secured indebtedness of Prudential. On April 25, 2011, a motion was served on behalf of Olymel seeking *inter alia* to amend the terms of the Initial Order relating to Critical Suppliers or, in the alternative, requiring the imposition of terms similar to those typically found in DIP lending agreements and the appointment of a "Critical Supplier Committee" at the cost of the estate.

7. Subsequently, at the request of the Monitor, the Monitor and its counsel, counsel to the Prizm Entities, counsel for Olymel and counsel for one additional critical supplier that had indicated support for certain aspects of the Olymel Motion met to discuss the matters raised in the Olymel Motion and to determine whether a basis existed to address the concerns of the two Critical Suppliers without the need for the Olymel Motion to be argued. A further meeting has been scheduled among the same parties for June 3, 2011, and no return date in respect of the Olymel Motion has been set.

#### **EXPIRY OF THE DIP AMENDMENT**

8. The DIP Amendment expired on its terms on May 20, 2011. While there have been discussions with Prudential in respect of an extension of the DIP Amendment, to date no extension has been agreed. However, the Prizm Entities' cash flow forecasts, as described later in this report, show that the Prizm Entities' do not anticipate a need for any advances under a DIP facility in the period of the forecasts.

#### **RECEIPTS & DISBURSEMENTS FOR APRIL 18 TO MAY 22, 2011**

9. The Prizm Entities' actual cash flow on a consolidated basis for the period from April 18 to May 22, 2011, was approximately \$2.7 million better than the April 20 Forecast filed as Appendix A to the Monitor's First Report, as summarized below:

	Forecast	Actual	Variance
	\$M	\$M	\$M
<b>Receipts:</b>			
Sales	42,016	41,811	(205)
Other	438	282	(156)
<b>Total Receipts</b>	<b>42,454</b>	<b>42,093</b>	<b>(361)</b>
<b>Disbursements:</b>			
Store costs	27,372	26,279	1,093
Occupancy costs	4,108	3,707	401
IT	345	95	250
Fixed asset vendors	229	162	67
Repairs & maintenance	661	317	344
Marketing	518	317	201
Other vendors	1,970	1,589	380
Royalties	0	0	0
Co-op marketing	1,186	892	294
Legal fees	21	22	(1)
Bank fees	215	132	84
Interest	0	0	0
Sales taxes	2,213	2,554	(341)
Legal & professional fees	1,658	1,398	259
Other	5	3	3
<b>Total Disbursements</b>	<b>40,499</b>	<b>37,467</b>	<b>3,032</b>
<b>Excess of Receipts over Disbursements</b>	<b>1,955</b>	<b>4,626</b>	<b>2,672</b>
Opening Cash	13,990	13,990	0
<b>Closing Cash</b>	<b>15,945</b>	<b>18,617</b>	<b>2,672</b>
Reversal of prior "funds not available"	897	897	0
Funds not available	(889)	(986)	(97)
	<b>15,953</b>	<b>18,528</b>	<b>2,575</b>

10. Explanations for the key variances in actual receipts and disbursements as compared to the April 20 Forecast are as follows:

- (a) The positive variance in Store costs arises from lower than forecast payroll costs and distributor costs and is believed to be a permanent saving;
- (b) The positive variance in Occupancy costs is a timing difference in respect of utility payments where invoices have not yet been received;

- (c) The positive variance in IT costs is a combination of a permanent variance of \$103,000 related to the non-payment of pre-filing portions of an invoice and a timing difference of \$147,000 which will reverse in future periods;
- (d) The positive variance in Repairs and Maintenance is a combination of a permanent variance of approximately \$100,000 and timing differences arising from terms being provided by certain vendors;
- (e) The positive variance in Marketing is a permanent variance arising from expenses included in the cash flow related to direct mail promotional programs that were not incurred;
- (f) The positive variance in Other Vendors is attributed to lower than forecast costs during the period and a timing difference of approximately \$280,000 with respect to the payment of property taxes;
- (g) The positive variance in Co-op marketing costs is a permanent variance arising as a result of the inadvertent inclusion in the forecast of part of an invoice that related to pre-filing amounts which were not paid as provided for in the Initial Order;
- (h) The negative variance in Sales Taxes arises due to a lower input tax credit in the current period; and
- (i) The positive variance in Legal and Professional Fees is a timing difference that will reverse in future periods.

### **REVISED CASH FLOW FORECAST TO JULY 3, 2011**

11. The May 24 Forecast is attached hereto as Appendix A and shows a minimum cash balance of approximately \$10.5 million in the period May 22 to July 3, 2011. The May 24 Forecast is summarized below:



	<b>\$M</b>
<b>Receipts:</b>	
Sales	86,785
Other	500
<b>Total Receipts</b>	<b>87,285</b>
<b>Disbursements:</b>	
Store costs	54,307
Occupancy costs	11,507
IT	828
Fixed asset vendors	1,026
Repairs & maintenance	1,271
Marketing	1,740
Other vendors	4,296
Royalties	4,310
Co-op marketing	4,047
Legal fees	541
Bank fees	406
Interest	0
Sales taxes	7,924
Legal & professional fees	2,699
Other	495
<b>Total Disbursements</b>	<b>95,395</b>
<b>Excess of Receipts over Disbursements</b>	<b>(8,110)</b>
Opening Cash	18,527
<b>Closing Cash</b>	<b>10,417</b>
Reversal of prior "funds not available"	985
Funds not available	(914)
	<b>10,489</b>

12. The major changes in the underlying assumptions in the May 24 Forecast as compared to the April 20 Forecast are as follows:
- (a) Payroll costs have been reduced to reflect recent cost levels;
  - (b) Chicken costs have been reduced by 2% to reflect recent cost levels;
  - (c) Royalty payments have been included for amounts arising in the period commencing May 21, 2011, as the deferral of royalties expires on May 20, 2011.

13. In addition to the May 24 Forecast, which assumes status quo for operations and no closing of the Soul Transaction, the Prizm Entities have prepared a cash flow forecast for the period May 22 to July 3, 2011 assuming that the Soul Transaction closes in the week ended June 5, 2011 (the “**May 24 Soul Closing Forecast**”). A copy of the May 24 Soul Closing Forecast is attached hereto as Appendix B.

## **THE SOUL TRANSACTION**

14. Capitalized terms not otherwise defined in this section of the Report have the meaning ascribed to such terms in the Soul APA.
15. As described in the Papernick Affidavit, on December 11, 2010, Prizm LP and Prizm Inc. entered into an asset purchase agreement with Soul Restaurants Canada Inc. (formerly 7716443 Canada Inc.) for the sale of 232 restaurants (subsequently reduced to 231) in Ontario and British Columbia<sup>1</sup> for an aggregate purchase price of approximately \$46.4 million before purchase price adjustments as provided for in the agreement (the “**December Soul APA**”). The December Soul APA was subject to several conditions, including due diligence, financing, obtaining a minimum number of lease assignments, the consent of the Franchisor and Prudential and, if necessary, Unitholder approval.
16. The sales process which ultimately resulted in the execution of the December Soul APA is described in the May 24 Affidavit.

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<sup>1</sup> The 231 stores in fact included 4 stores located in Hull and Gatineau, Quebec

17. Since the execution of the December Soul APA the parties had been working to clear conditions in order that the transaction could be closed. However, immediately before the commencement of the CCAA Proceedings, Soul requested a significant reduction to the purchase price. Since all of the conditions precedent to closing in the December Soul APA had not been satisfied at that time, the Prizm Entities and Soul engaged in extensive negotiations which resulted in a purchase price reduction of approximately \$2.4 million and a reduction of \$1.1 million in the Closing Date Current Assets Amount, with 27 fewer Outlets being included in the transaction, the deposit being increased by \$1 million and a number of conditions being removed or amended to reduce closing risk. On May 17, 2011, the Soul APA was executed.
18. The key provisions of the Soul APA, certain matters relating to the proceeds of sale and the Monitor's comments with relation to the foregoing are provided below.

#### **THE SOUL APA**

19. The key terms of the Soul APA, a copy of which is attached as Exhibit A to the May 24 Affidavit, are summarized as follows:
  - (a) The transaction includes 38 stores in British Columbia, 162 stores in Ontario and 4 stores in Quebec, including the Vendor's interest in the Leases and Leased Premises, the related Franchise Agreements, equipment, Trade Fixtures, Inventories, Accounts Receivable, Prepaid Expenses and Restaurant Cash Float;

- (b) The Leases shall be assigned to the Purchaser on consent of the Landlord where such consent is required. For any Lease where Landlord Consent is not obtained prior to Closing, commercially reasonable efforts shall be used to obtain either such Consent or an Order of the Court assigning such Lease within six months of Closing. In the period from Closing to the date of assignment, the Vendor shall hold the Lease in trust for the Purchaser and the Purchaser shall occupy the location pursuant to the Occupation Agreement (as defined later in this report);
- (c) To the extent that less than 95% (194) of the Leases are not assigned within six months of Closing, the Lease is terminated or the Purchaser is evicted prior to an assignment of the Lease becoming effective, the Purchase Price will be reduced by the amount of the Purchase Price allocated to the non-assigned Outlets and refunded to the Purchaser;
- (d) The Purchase Price is \$42,824,000, subject to adjustments in respect of Leases not assigned as described above and post-closing adjustment in respect of Current Assets. The Purchase Price is comprised of \$39.5 million plus \$408,000 related to franchise renewal fees previously paid by the Prizm Entities, \$116,000 equal to the price of the UPGC Shares plus \$2.8 million being the Closing Date Currents Assets Amount;
- (e) A deposit of \$3 million has been paid by the Purchaser and is held by the Monitor. The Deposit is refundable only in the event that the Vendor does not perform and comply with certain of the terms and conditions of the Soul APA, including the execution and delivery of documents contemplated or required under the Soul APA or if the conditions precedent for the mutual benefit of the Vendor and the Purchaser are not satisfied or waived;

- (f) The Closing Date shall be the first Monday after the Sale Approval Order is issued or such other date not later than May 31, 2011 as may be agreed by the parties; and
  - (g) The Purchaser shall offer employment effective as of the Closing Date to the Designated Employees, being the employees currently employed by the Vendor at the Outlets, the managers employed by the General Partner with respect to the Outlets, and the Regional Directors of Operations, Area Managers, and Field Training Leaders employed by the General Partner with respect to the geographic area in which the Outlets are situated, and the Purchaser shall recognize the service to the Vendor of the Designated Employees for all purposes.
20. The Soul APA is subject to a number of conditions, as follows:
- (a) For the exclusive benefit of the Purchaser, to be fulfilled or performed on or before the Closing Date:
    - (i) the Vendor shall deliver or cause to be delivered to the Purchaser all keys, entry devices and pass codes with respect to the Purchased Assets including combinations to any locks or vaults; provided that all keys, entry devices and pass codes in the possession of Transferred Employees shall be deemed to have been delivered to the Purchaser;
    - (ii) the representations and warranties of the Vendor shall be, to the best of the Vendor's knowledge, information and belief, true and correct in all material respects, subject to the CCAA process, as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date. However, (i) if a representation and warranty is qualified by materiality or

Material Adverse Effect, it must be true and correct in all respects after giving effect to such qualification and (ii) if a representation and warranty speaks only as of a specific date it only needs to be true and correct as of that date; and

- (iii) the Vendor shall have performed and complied with all of the terms and conditions in the Agreement on its part to be performed or complied with at or before the Closing and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated or required to be so executed and delivered in the Soul APA.
  
- (b) For the exclusive benefit of the Vendor, to be fulfilled or performed on or before the Closing Date (other than item (i) which shall be fulfilled or performed on or before the Condition Date):
  - (i) the Vendor shall have received evidence satisfactory to the Vendor that the Purchaser has and will have at Closing all funds on hand necessary to pay the Purchase Price;
  
  - (ii) the representations and warranties of the Purchaser shall be true and correct in all material respects as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date. However, (i) if a representation and warranty is qualified by materiality or Material Adverse Effect, it must be true and correct in all respects after giving effect to such qualification and (ii) if a representation and warranty speaks only as of a specific date it only needs to be true and correct as of that date; and

- (iii) the Purchaser shall have performed and complied with all of the terms and conditions in the Agreement on its part to be performed or complied with at or before the Closing and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated required to be so executed and delivered in this Agreement.
  
- (c) For the mutual benefit of the Vendor and the Purchaser, to be fulfilled or performed, on or before the Closing Date (other than items (ii) and (iii) which shall be fulfilled or performed on or before the Condition Date):
  - (i) the Sale Approval Order shall have been issued and entered by the Court either (i) in the form attached as Schedule “H” to the Soul APA, which the Parties acknowledge is satisfactory, or (ii) in a form which is not more adverse to the Purchaser, acting reasonably, and shall not be subject to a stay;
  - (ii) the Parties shall have received evidence, satisfactory to the Vendor and the Purchaser, acting reasonably, of the consent of Prudential to the transaction contemplated in the Soul APA; and
  - (iii) the Purchaser and the Franchisor shall have (i) entered into a new franchise agreement or (ii) have executed an agreement assigning the Master Franchise Agreement as it relates to the Outlets and the Franchise Agreements for each of the Outlets to the Purchaser, each in form and substance satisfactory to the Parties acting reasonably, and the Franchisor shall have provided its consent to such

assignment conditional upon completion of the transaction and any payments to the Franchisor contemplated by the Sale Approval Order in form and substance satisfactory to the Parties acting reasonably.

21. As evidence of financing, Soul has provided a copy of a commitment letter from Bank of Montreal and Soul's counsel has confirmed that it holds in its trust account adequate funds to fund the balance of the Purchase Price, after taking into account the advances to be received from Bank of Montreal under its funding commitment, under the Soul APA. Soul's counsel has further confirmed that its instructions are that such funds are to be held in the trust account and that such portion of such funds as are required to satisfy the Purchase Price, after taking into account the advances to be received from Bank of Montreal under its funding commitment, shall be paid to the Monitor upon the successful completion of the purchase transaction contemplated in the Soul APA. Soul's counsel has also confirmed that such instructions are not subject to any other conditions being met and that their clients have agreed such instructions will not change if the transaction contemplated by the Soul APA is completed in accordance with its terms. The Prizm Entities have informed the Monitor that relying on the foregoing, the condition in respect of evidence of financing described earlier in this report has been satisfied.
22. The Franchisor, the Prizm Entities and Soul have entered into a consent agreement, effective on Closing (the "**Franchisor Consent Agreement**"), a copy of which is attached hereto as Appendix C without certain Exhibits that are deemed confidential by one or more of the parties. Prizm LP, Prizm Inc. and Soul have entered into assignment agreement, effective on Closing, a copy of which is attached as Exhibit 1 to the Franchisor Consent Agreement.
23. The Parties have received satisfactory evidence of the consent of Prudential to the transaction contemplated in the Soul APA.



## **TREATMENT OF CLOSING PROCEEDS**

24. It is proposed that the Purchase Price of \$42,824,000, less the deposit of \$3,000,000 already held by the Monitor, be paid to the Monitor on closing. There are a number of potential claims to the Purchase Price and a number of payments to be made from the Purchase Price or from operating cash flow on or following Closing, as described below.

### ***Potential Refunds to Soul***

25. Pursuant to the Soul APA, a reimbursement of the Purchase Price will be due to Soul to the extent that:

- (a) Less than 95% (194) of the Leases are not assigned within six months of Closing or the Lease is terminated or the Purchaser evicted prior to an assignment becoming effective; and
- (b) The Current Assets are determined from the Current Assets Statement (prepared within 30 days of the Closing Date) to be less than \$2,800,000.

26. The Prizm Entities have informed the Monitor that as at May 24, 2011, 38 executed Landlord Consents have been received and a further 94 notices of assignment have been issued in respect of Leases which can on their terms be assigned on notice without consent (the “**Notice Leases**”). The Prizm Entities have also informed the Monitor that a form of consent has been agreed for execution on Closing in respect of 14 additional Leases, with a “comfort letter” confirming that the consent will be provided on Closing having been provided by the Landlords for 11 of those Leases.

27. Based on the provisions of the Soul APA, the Monitor calculates that the maximum potential Purchase Price reduction in respect of failure to assign Leases, assuming that only the Notice Leases and those Leases for which signed consents have already been obtained are ultimately assigned, is \$12.9 million.

28. The Prizm Entities have served a Notice of Motion, returnable on the same date as the motion for approval of the Soul Transaction, for an Order under section 11.3 of the CCAA assigning the rights and obligations of the Prizm Entities under the Leases for which no acceptable form of consent has yet been agreed or for which no comfort letter has been provided. To the extent that the Prizm Entities are successful in their motion, such Leases would be assigned on Closing and there would be no Purchase Price reduction in respect of the failure to assign leases.
29. It is not possible to calculate at this time what the Current Assets Purchase Price Adjustment may be. Accordingly, the full amount of the Currents Assets Closing Amount, being \$2.8 million, will be held pending adjustment in accordance with the terms of the Soul APA.
30. In addition to the potential refunds under the Soul APA, refund obligations exist under the Occupation Agreement. The Prizm Entities have calculated the maximum potential refund under the Occupation Agreement as approximately \$0.8 million.

***Payments to the Franchisor***

31. The Master Franchise Agreement provides that on a transfer of an Outlet, the Franchisor is entitled to be paid all accrued monetary obligations owing by the Franchisor plus a transfer fee of US\$5,400 per store, to a maximum aggregate transfer fee of US\$1 million (the “**Transfer Fee**”).
32. As a condition of its consent to the assignment of the Franchise Agreements or the granting of a new Franchise Agreement, which is a condition precedent to the Soul APA, the Franchisor has demanded that the following amounts be paid out of the proceeds of the transaction that are accrued to May 15, 2011, plus the amounts accruing from May 16, 2011 to the Closing Date (not to exceed \$1.5 million), which it is estimated will be approximately \$650,000:

	<b>Principle Amount</b>	<b>Interest to 31/3</b>	<b>Taxes</b>	<b>Total</b>
<b>Pre-Filing Amounts:</b>				
Royalty on stores in APA	\$4,463,437.42	\$136,689.22	\$571,837.37	\$5,171,964.01
Royalty on stores in former APA	\$330,388.41	\$10,047.28	\$42,271.00	\$382,706.69
Royalty on other ON/BC stores	\$71,693.32	\$2,377.31	\$9,320.13	\$83,390.77
Other amounts	\$237,259.71	\$8,773.86	\$16,855.03	\$262,888.60
<b>Total Pre-Filing Amounts</b>	<b>\$5,102,778.86</b>	<b>\$157,887.67</b>	<b>\$640,283.54</b>	<b>\$5,900,950.07</b>
<b>Post-Filing Amounts:</b>				\$0.00
Royalty on stores in APA	\$1,387,942.14		\$177,715.81	\$1,565,657.95
Royalty on stores in former APA	\$107,817.13		\$13,784.50	\$121,601.63
Royalty on other ON/BC stores	\$21,018.05		\$2,732.35	\$23,750.39
Other amounts <sup>1</sup>	\$118,785.67		\$8,930.74	\$127,716.41
<b>Total Post-Filing Amounts</b>	<b>\$1,635,562.99</b>	<b>\$0.00</b>	<b>\$203,163.40</b>	<b>\$1,838,726.39</b>
Transfer Fees	\$975,799.96		\$125,109.38	\$1,100,909.34
<b>Total</b>	<b>\$7,714,141.81</b>	<b>\$157,887.67</b>	<b>\$968,556.32</b>	<b>\$8,840,585.80</b>

<sup>1</sup>Includes call center and training costs

33. The Monitor has been informed that the Prizm Entities, the Purchaser and Prudential have agreed to the aforementioned payments to the Franchisor in order to obtain the consent to the assignment of the Franchise Agreements in satisfaction of the condition precedent to the Soul APA regarding Franchise Agreements.

***Potential Landlord Claims***

34. Scott’s REIT (“SREIT”) is the Prizm Entities’ major landlord with 181 leases, of which 63 are subject to the Soul Transaction. SREIT has alleged a claim that the wording of their leases is such that in the event that the Prizm Entities undertake a transaction that includes a payment for the assignment of leases, SREIT is entitled to such proceeds and that the proceeds are to be held in trust for the benefit of SREIT. The Prizm Entities and Prudential dispute this claim, which is as yet not the subject of a motion before this Honourable Court. The leases of a number of other landlords have language similar to that contained in the SREIT leases, though, to the Monitor’s knowledge, as at the date of this report none have advanced the same claims as SREIT.

35. The Prizm Entities have agreed that a portion of the proceeds of the Soul Transaction will be held by the Monitor pending further order of the Court.
36. SREIT have requested that \$12.2 million be held pending further order of the Court, without duplication of amounts held in respect of any potential purchase price reduction in connection with a failure to assign leases. The Monitor understands that this amount is calculated by dividing \$39.5 million of the Purchase Price by the number of Outlets subject to the Soul Transaction (204) and multiplying by the number of such Outlets that are subject to SREIT leases.
37. Schedule F to the Soul APA includes a purchase price allocation by Outlet. The Monitor understands that Schedule F to the December Soul APA was agreed between Soul and the Prizm Entities at a time where there was no knowledge of the potential claims of landlords. Schedule F to the Soul APA has been prepared by the Prizm Entities by making pro rata adjustments to the original Schedule F to reflect the reduced Purchase Price. Accordingly, the allocation of the Purchase Price between the Outlets does not appear to have been influenced by knowledge of the potential claims of landlords. Schedule F allocates no value to the lease interest but does allocate value to each of leasehold improvements, equipment, franchise rights and goodwill.
38. For the various categories of leases that are subject to the Soul Transaction, the Monitor has calculated the amount of the Purchase Price related to the associated Outlets using the Purchase Price allocation from Schedule F to the Soul APA and using the pro-rata method used by SREIT as follows:

	Consideration Clause			No Clause			Total		
	#	Sched F	ProRata	#	Sched F	ProRata	#	Sched F	ProRata
		\$M	\$M		\$M	\$M		\$M	\$M
SREIT Notice	32	4.7	6.2	0	0.0	0.0	32	4.7	6.2
Other Notice	14	6.0	2.7	48	9.9	9.3	62	15.9	12.0
<b>Total Notice</b>	<b>46</b>	<b>10.7</b>	<b>8.9</b>	<b>48</b>	<b>9.9</b>	<b>9.3</b>	<b>94</b>	<b>20.6</b>	<b>18.2</b>
SREIT Consent Outstanding	31	5.2	6.0	0	0.0	0.0	31	5.2	6.0
Other Consent Outstanding	16	3.6	3.1	25	4.1	4.8	41	7.7	7.9
<b>Total Consent Outstanding</b>	<b>47</b>	<b>8.8</b>	<b>9.1</b>	<b>25</b>	<b>4.1</b>	<b>4.8</b>	<b>72</b>	<b>12.9</b>	<b>13.9</b>
SREIT Consent Received	0	0.0	0.0	0	0.0	0.0	0	0.0	0.0
Other Consent Received	5	0.5	1.0	33	5.5	6.4	38	6.0	7.4
<b>Total Consent Received</b>	<b>5</b>	<b>0.5</b>	<b>1.0</b>	<b>33</b>	<b>5.5</b>	<b>6.4</b>	<b>38</b>	<b>6.0</b>	<b>7.4</b>
Total SREIT	63	9.9	12.2	0	0.0	0.0	63	9.9	12.2
Total Other	35	10.1	6.8	106	19.5	20.5	141	29.6	27.3
<b>Total</b>	<b>98</b>	<b>20.0</b>	<b>19.0</b>	<b>106</b>	<b>19.5</b>	<b>20.5</b>	<b>204</b>	<b>39.5</b>	<b>39.5</b>

39. Using the greater of the allocation contained in Schedule F to the Soul APA or the pro-rata calculation for each category of leases as set out above, the Monitor calculates that a total of approximately \$22.8 million (highlighted in the table above) of the Purchase Price relates to the Outlets with leases that have been identified as having clauses similar to those on which SREIT appears to base its claim, inclusive of the \$12.2 million related to Outlets with an SREIT lease. Of this amount, approximately \$8.8 million is the maximum possible purchase price reduction relating to leases requiring consent for assignment which consent has not yet been executed at the date of this report.

***Payments to Critical Suppliers***

40. As part of its ongoing monitoring of the receipts and disbursements of the Prizm Entities, the Monitor has been reviewing the status of payments to Critical Suppliers. Nothing has come to its attention to suggest that such payments have not been in compliance with the terms of the Amended Initial Order. Based on the outstanding invoices and the May 24 Forecast, the Monitor estimates that as at May 29, 2011, approximately \$11.4 million will be accrued and owing to Critical Suppliers for post-filing supply.
41. The Prizm Entities have informed the Monitor that it is their intent, if the Soul Transaction Closes, to pay the outstanding post-filing Critical Supplier invoices within one week of the Closing Date from cash on hand.
42. In the event that the Soul Transaction closes and once the amounts owing to Critical Suppliers for post-filing supply up to the Closing Date have been paid, the Monitor estimates, based on the May 24 Soul Closing Forecast, that the maximum amount of liabilities subject to the Critical Supplier Charge would be reduced to approximately \$5.3 million, primarily as a result of the reduction in the number of outlets being operated by the Prizm Entities.

## THE MONITOR'S COMMENTS

### *The Soul Transaction*

43. As described in the May 24 Affidavit, the sales process that led to the execution of the December Soul APA was carried out in the fall of 2010, many months before the commencement of the CCAA Proceedings. While the Prizm Entities took steps to try to identify and canvass an extensive range of potentially interested parties, there did not appear to be any significant public disclosure regarding the acquisition opportunity. Furthermore, at that time, interested parties may have believed that there were restrictions on what was available for sale as the Prizm Entities intent was to sell only a portion of their locations, pay down debt and restructure around a reduced number of stores. In addition, the process focussed only on a sale for existing use and did not involve parties that may have been interested in acquiring assets for alternate use.
  
44. Since the commencement of the CCAA Proceedings, a number of parties have expressed interest in exploring a potential acquisition of the assets subject to the Soul Transaction. Given the exclusivity enjoyed by Soul pursuant to the December Soul APA (which exclusivity expired only on termination of the December Soul APA by the Prizm Entities on May 13, 2011), the Prizm Entities have not been able to explore whether there is any possibility that an alternate buyer may be prepared to pay a higher price for the assets subject to the Soul APA. Accordingly, given the limitations of the process that led to the December Soul APA, in considering the Prizm Entities' request for approval of the Soul APA, the Monitor considered the benefits of the Soul APA against the potential benefits and risks associated with remarketing the assets.

45. The Monitor has considered the Purchase Price in comparison to the non-binding expressions of interest received in connection with the Marketing Process for the locations not part of the Soul Transaction. Based on that comparison, the Monitor is of the view that the Purchase Price under the Soul APA is reasonable. The Monitor is also of the view that disclosure of those expressions of interest or of the comparative analysis could be highly detrimental to the ongoing Marketing Process. Accordingly, that analysis is contained in confidential Appendix D to this report for which the Prizm Entities are seeking a Sealing Order.
46. Given the limited conditions of the Soul APA, the evidence of financing provided by Soul and the satisfaction of the conditions precedent related to the consents of Prudential and the Franchisor, the Prizm Entities believe that there is a relatively low degree of closing risk. The Monitor concurs.
47. While it is possible that a higher realization could potentially be achieved if the assets were remarketed, doing so would give rise to additional delay and expense and bears the risk that no offers may be received following a remarketing or that future offers may be lower. While a “stalking-horse” process would provide the opportunity to remarket the assets while protecting against the down-side risk of a lower price, Soul has informed the Prizm Entities that is not prepared to act as a stalking-horse.



48. Closing of the Soul APA would result in the continuation of going concern operations at 204 restaurants. This would preserve approximately 3,100 jobs, provide the landlords of those locations with a replacement tenant and provide ongoing business opportunities for suppliers. The Monitor is of the view that notwithstanding the possibility that a higher purchase price may be achieved if the assets subject to the Soul APA are remarketed, the benefits that the Soul Transaction provides outweigh the risks associated with remarketing. Accordingly, the Monitor is of the view that the Purchase Price is reasonable in the circumstances and supports the Prizm Entities request for approval of the Soul APA.

***Proposed Payments to the Franchisor***

49. The Prizm Entities and the Monitor have reviewed the calculation of the amounts claimed by the Franchisor with respect to pre-filing and post-filing continuing fees, Transfer Fees and other amounts owing under the Master Franchise Agreement and are satisfied as to the method and accuracy of such calculations.
50. While the Franchise Agreement provides for the payment of Transfer Fees, the Company has informed the Monitor that the Transfer Fees have not been paid on previous sales of stores to existing franchisees of the Franchisor. While the Monitor understands that Soul is an affiliate of a U.K. based franchisee of the Franchisor's affiliates, the Franchisor has taken the position that the Purchaser itself is not an existing franchisee. Accordingly, the Franchisor is requiring the payment of the Transfer Fee in respect of the Soul Transaction.
51. The Franchise Agreement provides for interest on overdue amounts at the rate of 18% per annum. The payments demanded by the Franchisor as a condition of their consent to the assignment of the Franchise Agreements include interest on the pre-filing Continuing Fees and other amounts payable up to the date on the Initial Order.

52. As noted earlier in this report, the amount demanded by the Franchisor as a condition of its consent to the assignment of the Franchise Agreement includes pre-filing and post-filing arrears relating to Outlets that are not subject to the Soul Transaction and is therefore not limited to amounts required to “cure” monetary defaults related to the Outlets.

***Potential Landlord Claims***

53. The SREIT claim to proceeds is not currently subject to a motion before the Court. The Prizm Entities and SREIT have agreed that \$12.2 million of the Purchase Price (being the pro-rata portion of the Purchase Price related to such Outlets, calculated as \$39.5 million multiplied by the number of Outlets subject to SREIT Leases in the Soul Transaction divided by 204, the total number of Outlets in the Soul Transaction) will be held by the Monitor pending further Order of the Court.
54. As there are additional leases that include provisions similar to the provisions in the SREIT leases, the Monitor is of the view that proceeds should also be held in case of claims by other landlords. In that regard, the Prizm Entities have agreed that the Monitor will hold a further \$10.6 million pending further order of the Court, being the greater of the pro rata amount of the Purchase Price related to such Outlets and the amount set out in Schedule F to the Soul APA.
55. The Monitor calculates that of the total of \$22.8 million described above, \$8.8 million is included in the amount that will be held in respect of potential purchase price reductions. As the landlords’ claims, if any, could only extend to the proceeds of sale if they are not refunded to the Purchaser in accordance with the Soul APA, “reserving” the \$8.8 million in addition to the amounts reserved in respect of the potential Purchase Price reduction would be duplicative and is not necessary.

***Payments to Critical Suppliers***

56. As the Critical Supplier Charge is secured against the assets subject to the Soul Transaction and ranks subordinate only to the Administration Charge<sup>2</sup>, and having regard to the Prizm Entities cash flow forecasts, the Monitor is of the view that it is appropriate for the Prizm Entities to pay the outstanding post-filing Critical Supplier invoices within one week of the Closing Date.

***Payments Required under Section 36(7) of the CCAA***

57. The Monitor has reviewed the calculation of amounts payable in respect of the employees that would be transferred to Soul or whose employment would be terminated as a result of the Soul Transaction and is satisfied that the payments referred to in section 36(7) of the CCAA can be made to such employees by the Prizm Entities from operating cash flow.

***Summary of Proceeds to be Held by Monitor***

58. If the relief is granted as requested, the proceeds held by the Monitor would be as follows:

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<sup>2</sup> In respect of assets in the estate. SREIT is also advancing a claim that proceeds are subject to a trust and therefore do not constitute assets in the estate to which the Court-ordered charges attach.

	\$M	\$M
Gross Proceeds		42.8
Payments to Franchisor <sup>1</sup>		(9.5)
<b>Net Proceeds Held by Monitor</b>		<u><b>33.3</b></u>
Amounts Required to be Reserved:		
Current Asset Adjustment <sup>2</sup>	2.8	
Purchase Price reduction if leases not assigned <sup>2,3,5</sup>	12.9	
Occupation Costs <sup>5</sup>	0.8	
Additional potential landlord claims <sup>4</sup>	<u>14.0</u>	
Total Reserved		<u>(30.5)</u>
<b>Excess</b>		<u><b>2.8</b></u>

<sup>1</sup>Including estimate of \$0.65M for amounts accruing from May 16 to Closing

<sup>2</sup>Potentially repayable to Purchaser under the APA

<sup>3</sup>Calculated using allocation in Schedule F to APA. Includes \$8.8M re potential landlord claims if leases assigned

<sup>4</sup>Calculated as described earlier in this report

<sup>5</sup>Subject to adjustment for any additional consents received

## THE OCCUPATION AGREEMENT

59. Prizm LP, Prizm Inc. and Soul have entered into an occupation agreement, effective as of the Closing Date, pursuant to which Soul will occupy and operate the Outlets subject to the Soul Transaction for which Leases are not assigned on Closing (the “**Occupation Agreement**”). A copy of the Occupation Agreement is attached as Exhibit B to the May 24 Affidavit. Capitalized terms used in this section of the report that are not otherwise defined are as defined in the Occupation Agreement.
60. The key terms of the Occupation Agreement are summarized as follows:
- (a) Soul is granted a licence to occupy each of the Premises from the Closing Date to the earlier of:
    - (i) the date that is six months from the Closing Date;

- (ii) the time the relevant Landlord's consent to the assignment of the applicable Lease is obtained or the assignment has been ordered by the Court and such Lease has been assigned to the Licensee;
  - (iii) the time the applicable Lease is lawfully terminated or expires; and
  - (iv) the time the license is terminated in respect of any given Lease in accordance with the terms of the Occupation Agreement;
- (b) Soul is required to pay to Prizm LP any and all rent, expenses, occupation costs and other amounts relating to the Premises which Prizm LP is obligated to pay pursuant to and in accordance with the Leases;
61. The Occupation Agreement does not purport to release Prizm LP or Prizm Inc. from any obligations, liabilities or covenants that it has under the Leases.
62. The Monitor supports the Soul Transaction closing and the Leases being assigned as quickly as possible. To the extent that the Leases are not assigned on Closing, because the Prizm Entities do not have acceptable forms of landlord consent and an order is not made by the Court assigning such Leases pursuant to section 11.3 of the CCAA, the Monitor supports the Prizm Entities' request for approval of the Occupation Agreement as a mechanism to ensure that the Soul Transaction can close, the Outlets can continue to be operated and the employees' jobs can be preserved pending the Leases being assigned.

## **THE TRANSITION SERVICES AGREEMENT**

63. Prizm LP, Prizm Inc. and Soul have entered into an agreement for the provision of certain information technology services (the “**Transition Services Agreement**”), which agreement is effective on the Closing Date. Capitalized terms used in this section of this report not otherwise defined are as defined in the Transition Services Agreement.
64. The Transition Services Agreement is conditional on its approval by the Court and approval of the Soul APA. It provides for the provision of the Services by Prizm LP for the period from the Closing Date to July 22, 2011. Pursuant to the Transition Services Agreement, Soul will pay for the Services and the provision of the Services shall be on a no cost basis to Prizm LP.
65. Given the short period of the Transition Services Agreement and that there should be no cost to the estate from the implementation of the Transition Services Agreement and the provision of the Services thereunder, the Monitor supports the Prizm Entities’ request for approval of the Transition Services Agreement.

## **THE 11.3 MOTION**

66. In connection with the Soul Transaction, the Prizm Entities have filed a notice of motion, returnable on May 30, 2011, seeking an Order under section 11.3 of the CCAA assigning the rights and obligations of the Prizm Entities (for each Lease, an “**11.3 Order**”) under the 72 Leases for which executed consents to assign have as yet not been received from the relevant landlords (the “**Outstanding Leases**”).
67. Under the Soul APA, the Prizm Entities have an obligation to use commercially reasonable efforts to obtain either the landlord’s consent to the assignment or an 11.3 Order. As described earlier in this report, to the extent that the Outstanding Leases are not assigned, there would be a Purchase Price reduction unless at least 95% of all Leases are assigned.

68. Assuming the Soul Transaction is approved and closes, the majority of stores in Ontario and British Columbia will be sold and the employees responsible for the operation of such stores, including the area and regional managers will be transferred to Soul. In the event that some or all of the Outstanding Leases are not ultimately assigned, the Prizm Entities would be left with the stores but with no local management infrastructure to oversee their operation. The senior management of the Prizm Entities have informed the Monitor that, in their opinion, the continued operation of stores with Outstanding Leases is unlikely to be feasible in the event that the Outstanding Leases are not ultimately assigned.
69. The Monitor is unable to comment on Soul's business plans or the strength of the covenant that assignment of the Outstanding Leases would provide to the landlords in question. However, the Monitor understands that it is Soul's intention to continue to operate the same business as is currently operated by the Prizm Entities at those locations.
70. While the Monitor understands that SREIT has provided a form of assignment agreement to the Prizm Entities by which it proposes to consent to the assignment of its outstanding leases to Soul. The Prizm Entities and SREIT have not been able to agree to the terms of such agreement. The Monitor supports the Soul Transaction closing and the Leases being assigned as quickly as possible. The 11.3 Motion provides an efficient mechanism to achieve that.
71. The Monitor has not been made aware of any existing monetary defaults under the Outstanding Leases that could not be remedied by the Prizm Entities.
72. Accordingly, the Monitor approves of the proposed assignment.

## **THE MARKETING PROCESS**

73. As described in the Papernick Affidavit and the Monitor's First Report, the Prizm Entities are in the process of seeking offers for the acquisition of the locations that are not part of the Soul Transaction with the assistance of Canaccord Genuity.
74. Potential purchasers were identified and approached by Canaccord Genuity to determine if they were interested in participating in the Marketing Process and a "teaser" outlining the opportunity was provided on request.
75. Those parties who informed Canaccord Genuity that they were interested in exploring the opportunity to acquire the assets and who executed a confidentiality agreement in a form satisfactory to the Prizm Entities were provided a confidential information memorandum and access to a virtual data-room.
76. Prospective purchasers were informed that they were required to submit a letter of intent ("**Letter of Intent**") on or before March 22, 2011 (the "**LOI Deadline**").
77. The Letters of Intent received were reviewed by the Prizm Entities, in consultation with Canaccord Genuity, the Proposed Monitor (as it was then) and Prudential and all parties that submitted a Letter of Intent were invited to proceed to the next phase of the Marketing Process, other than one party that expressed interest in only two stores.
78. A deadline of May 9, 2011, was set as the deadline for binding offers.
79. Following the commencement of the CCAA Proceedings, several additional parties contacted the Monitor, the Prism Entities or Canaccord Genuity to express interest in a potential acquisition of stores. All such parties were invited to execute a confidentiality agreement and those that did so were provided the confidential information memorandum and access to the virtual data-room.



80. A number of interested parties requested that the May 9 bid deadline be extended as they needed additional time to complete due diligence and formulate an offer. As a result of the significant number of additional interested parties that came forward following the commencement of the CCAA Proceedings and after consultation with Canaccord Genuity, the Monitor and Prudential, the Prizm Entities extended the deadline for the submission of binding offers to May 25, 2011 (the “**Bid Deadline**”).
81. The Monitor believes that the Marketing Process is fair, transparent and reasonable in the circumstances. The Monitor therefore respectfully recommends that the Prizm Entities’ request for approval of the Marketing Process be granted.

#### **THE CANACCORD GENUITY ENGAGEMENT LETTER & SEALING ORDER**

82. As noted earlier in this report, Canaccord Genuity was engaged by the Prizm Entities pursuant to the Canaccord Genuity Engagement Letter to assist with the marketing of the business and assets of the Prizm Entities related to those locations not located in Ontario or British Columbia and that are not subject to the Soul Transaction. The Prizm Entities now seek an order approving the engagement of Canaccord Genuity *nunc pro tunc*.
83. Canaccord Genuity is a well known and respected provider of investment banking services. Furthermore, the Monitor is informed that Canaccord Genuity has previously provided various services to the Prizm Entities. Accordingly, Canaccord Genuity is familiar with the assets and the industry and is a logical choice to assist with the Marketing Process.

84. The Canaccord Genuity Engagement Letter provides for an engagement fee on execution (which was paid prior to the CCAA Proceedings) and transaction fees (the “**Transaction Fee**”) payable on completion of any Transaction (as defined in the Canaccord Genuity Engagement Letter) other than the Soul Transaction, with the amount of the Transaction Fee dependant on the gross proceeds of Transactions. The engagement fee is to be credited against any Transaction Fee.
85. The Monitor understands that the fee structure contained in the Canaccord Genuity Engagement Letter was the subject of significant negotiation with the Prizm Entities and Prudential. Based on its experience and the circumstances of this case, the Monitor is of the view that the fees provided for in the Canaccord Genuity Engagement Letter are consistent with market practice and are reasonable.
86. The Canaccord Genuity Engagement Letter provides that it is to be maintained as confidential. Furthermore, the Prizm Entities and Canaccord Genuity submit that the terms and conditions of the Canaccord Genuity Engagement Letter are commercially sensitive and disclosure could adversely impact the Marketing Process. The Monitor concurs. Accordingly, a redacted version of the Canaccord Genuity Engagement Letter is attached hereto as Appendix E. The unredacted Canaccord Genuity Engagement Letter will, of course, be made available to the Court under appropriate confidentiality arrangements if requested.
87. Based on the forgoing, the Monitor respectfully recommends that this Honourable Court grant the Prizm Entities’ request for approval of the Canaccord Genuity Engagement Letter.

## **THE KEY EMPLOYEE RETENTION PLANS**

88. As described at paragraphs 102 to 106 of the Papernick Affidavit, prior to the commencement of the CCAA Proceedings, the Prizm Entities offered 41 key personnel retention bonuses and created trusts in favour of the KERP participants to secure the obligations under the KERPs.
89. On April 29, 2011, the Honourable Madam Justice Mesbur granted an Order approving certain amendments to the KERPs. Since then, an additional two KERP participants have resigned and have therefore forfeited their entitlement under the KERPs. The Prizm Entities continue to have concerns regarding the retention of key employees and seek discretionary authority, subject to the prior concurrence of the Monitor, to utilize amounts forfeited by the resignation of KERP participants to date or in the future to make additional KERP payments. As this would be a redistribution of amounts already subject to a trust agreement and the quantum would not be significant to the estate as a whole, the Monitor is of the view that there would be no adverse impact on creditors of the Prizm Entities if the Prizm Entities' request is granted.
90. Accordingly, the Monitor respectfully recommends that this Honourable Court grant the Prizm Entities' request for discretionary authority, subject to the prior concurrence of the Monitor, to utilize amounts forfeit by the resignation of KERP participants to date or in the future to make additional KERP payments.

The Monitor respectfully submits to the Court this, its Second Report.

Dated this 26<sup>th</sup> day of May, 2011.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Priszm Income Fund, Priszm Canadian Operating Trust,  
Priszm Inc. and Kit Finance Inc.



Nigel D. Meakin  
Senior Managing Director



Toni Vanderlaan  
Managing Director

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# Appendix A

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**The May 24 Forecast**

# Prizm Income Fund

## CCAA Cash Flow Forecast

[May 23, 2011

Amounts in CDN\$000's

Week Ended	5/27/11	6/3/11	6/10/11	6/17/11	6/24/11	7/1/11	7/8/11	7/15/11	7/22/11	7/29/11	Total
Prizm Accounting Week Number	22	23	24	25	26	27	28	29	30	31	
<b>Receipts</b>											
Sales	8,715	8,464	8,056	8,738	9,018	9,760	9,247	8,849	7,949	7,991	86,785.3
Other	50	50	50	50	50	50	50	50	50	50	500.0
<b>Total Receipts</b>	<b>8,765</b>	<b>8,514</b>	<b>8,106</b>	<b>8,788</b>	<b>9,068</b>	<b>9,810</b>	<b>9,297</b>	<b>8,899</b>	<b>7,999</b>	<b>8,041</b>	<b>87,285.3</b>
<b>Disbursements</b>											
Store Costs	3,210	7,765	3,587	7,255	3,082	6,962	3,381	7,484	3,893	7,689	54,307.0
Occupancy Costs	354	1,925	448	1,828	350	2,044	355	1,963	253	1,987	11,507.0
IT	31	-	189	155	-	-	72	249	36	96	828.0
Fixed Asset Vendors	48	46	278	56	52	58	271	34	86	98	1,025.8
Repairs and Maintenance	61	97	58	217	87	137	153	146	100	214	1,270.9
Marketing	267	430	1	-	-	159	261	190	374	58	1,739.7
Other Vendors	572	478	389	249	224	866	366	340	318	494	4,295.6
Royalties	-	-	-	-	2,064	-	-	-	2,246	-	4,309.7
Co-op Advertising	1,324	-	-	-	1,305	-	-	-	1,418	-	4,046.8
Legal Fees	135	62	25	81	63	40	120	-	14	2	541.1
Bank Fees	1	169	24	7	1	1	193	7	1	1	405.7
Interest	-	-	-	-	-	-	-	-	-	-	-
Taxes	2,609	-	-	-	2,539	-	-	-	2,776	-	7,923.6
Other Payments	-	-	-	-	-	-	-	-	-	-	-
Legal and Professional Fees - Restructuring	320	258	258	288	258	258	258	288	258	258	2,699.3
S'Cool Life / WHF	-	165	-	-	-	165	-	-	-	165	495.0
<b>Total Disbursements</b>	<b>8,931</b>	<b>11,394</b>	<b>5,256</b>	<b>10,136</b>	<b>10,023</b>	<b>10,689</b>	<b>5,429</b>	<b>10,702</b>	<b>11,773</b>	<b>11,062</b>	<b>95,395.2</b>
<b>Net Cash Flow</b>	<b>(167)</b>	<b>(2,880)</b>	<b>2,849</b>	<b>(1,348)</b>	<b>(955)</b>	<b>(879)</b>	<b>3,868</b>	<b>(1,803)</b>	<b>(3,774)</b>	<b>(3,021)</b>	<b>(8,109.9)</b>
<b>[A] Adjusted for DIP Financing and Costs</b>											
<b>Opening Cash Position (not including "Funds not Available")</b>	18,527	18,518	15,667	18,560	17,068	16,084	15,128	19,049	17,287	13,511	18,527.2
Reversal of previous week's "Funds NOT Available"	985	828	799	756	899	928	1,004	952	911	912	985.3
Net Cash Flow from Operations	(167)	(2,880)	2,849	(1,348)	(955)	(879)	3,868	(1,803)	(3,774)	(3,021)	(8,109.9)
Royalties	-	-	-	-	-	-	-	-	-	-	-
Commitment Fee (Note Amendment Agreement)	-	-	-	-	-	-	-	-	-	-	-
Issuance Fees (1% of principal amount as per Note Amendment Agreement)	-	-	-	-	-	-	-	-	-	-	-
Funds NOT Available for Outflow use - Non-RBC/ Cr & Dr Card Dep	(828)	(799)	(756)	(899)	(928)	(1,004)	(952)	(911)	(912)	(914)	(913.6)
<b>Ending balance in cash before Funding and Interest</b>	<b>18,518</b>	<b>15,667</b>	<b>18,560</b>	<b>17,068</b>	<b>16,084</b>	<b>15,128</b>	<b>19,049</b>	<b>17,287</b>	<b>13,511</b>	<b>10,489</b>	<b>10,489.0</b>
Issuance of Series 2011 Notes (includes minimum cash on hand assumption)	-	-	-	-	-	-	-	-	-	-	-
Interest on Series 2011 Notes	-	-	-	-	-	-	-	-	-	-	-
Issuance of Series 2011 DIP Notes	-	-	-	-	-	-	-	-	-	-	-
<b>Adjusted Cash Position - Forbearance and Financing Costs</b>	<b>18,518</b>	<b>15,667</b>	<b>18,560</b>	<b>17,068</b>	<b>16,084</b>	<b>15,128</b>	<b>19,049</b>	<b>17,287</b>	<b>13,511</b>	<b>10,489</b>	<b>10,489.0</b>

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# Appendix B

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## The May 24 Soul Closing Forecast

# Prizm Income Fund

## CCAA Cash Flow Forecast

[May 23, 2011

Amounts in CDN\$000's

Week Ended	5/27/11	6/3/11	6/10/11	6/17/11	6/24/11	7/1/11	7/8/11	7/15/11	7/22/11	7/29/11	Total
Prizm Accounting Week Number	22	23	24	25	26	27	28	29	30	31	
<b>Receipts</b>											
Sales	8,715	3,985	3,624	4,151	4,236	4,555	4,195	4,128	3,251	3,308	44,148
Other	50	50	50	50	50	50	50	50	50	50	500
<b>Total Receipts</b>	<b>8,765</b>	<b>4,035</b>	<b>3,674</b>	<b>4,201</b>	<b>4,286</b>	<b>4,605</b>	<b>4,245</b>	<b>4,178</b>	<b>3,301</b>	<b>3,358</b>	<b>44,648</b>
<b>Disbursements</b>											
Store Costs	3,210	13,500	292	2,612	965	3,430	1,723	3,698	1,798	3,759	34,986
Occupancy Costs	354	1,115	343	873	245	901	109	998	164	889	5,991
IT	31	-	189	155	-	-	72	249	36	96	828
Fixed Asset Vendors	48	18	109	22	20	23	107	14	34	39	432
Repairs and Maintenance	61	38	23	85	34	54	60	58	39	84	536
Marketing	267	198	0	-	-	73	120	88	172	27	945
Other Vendors	572	334	202	122	95	469	176	180	147	177	2,474
Royalties	-	-	-	-	1,518	-	-	-	1,044	-	2,563
Co-op Advertising	1,324	-	-	-	936	-	-	-	606	-	2,866
Legal Fees	135	62	25	81	63	40	120	-	14	2	541
Bank Fees	1	78	11	3	1	1	89	3	1	1	187
Interest	-	-	-	-	-	-	-	-	-	-	-
Taxes	2,609	-	-	-	1,832	-	-	-	1,218	-	5,658
Other Payments	-	-	-	-	-	-	-	-	-	-	-
Legal and Professional Fees - Restructuring	320	258	258	288	258	258	258	288	258	258	2,699
S'Cool Life / WHF	-	76	-	-	-	76	-	-	-	76	228
<b>Total Disbursements</b>	<b>8,931</b>	<b>15,677</b>	<b>1,452</b>	<b>4,241</b>	<b>5,965</b>	<b>5,322</b>	<b>2,834</b>	<b>5,577</b>	<b>5,529</b>	<b>5,407</b>	<b>60,936</b>
<b>Net Cash Flow</b>	<b>(167)</b>	<b>(11,641)</b>	<b>2,222</b>	<b>(40)</b>	<b>(1,679)</b>	<b>(717)</b>	<b>1,411</b>	<b>(1,399)</b>	<b>(2,228)</b>	<b>(2,049)</b>	<b>(16,288)</b>
<b>[A] Adjusted for DIP Financing and Costs</b>											
<b>Opening Cash Position (not including "Funds not Available")</b>	<b>18,527</b>	<b>18,518</b>	<b>7,367</b>	<b>9,627</b>	<b>9,459</b>	<b>7,771</b>	<b>7,021</b>	<b>8,469</b>	<b>7,077</b>	<b>4,845</b>	<b>18,527</b>
Reversal of previous week's "Funds NOT Available"	985	828	338	299	427	436	469	432	425	429	985
Net Cash Flow from Operations	(167)	(11,641)	2,222	(40)	(1,679)	(717)	1,411	(1,399)	(2,228)	(2,049)	(16,288)
Royalties	-	-	-	-	-	-	-	-	-	-	-
Commitment Fee (Note Amendment Agreement)	-	-	-	-	-	-	-	-	-	-	-
Issuance Fees (1% of principal amount as per Note Amendment Agreement)	-	-	-	-	-	-	-	-	-	-	-
Funds NOT Available for Outflow use - Non-RBC/ Cr & Dr Card Dep	(828)	(338)	(299)	(427)	(436)	(469)	(432)	(425)	(429)	(432)	(432)
<b>Ending balance in cash before Funding and Interest</b>	<b>18,518</b>	<b>7,367</b>	<b>9,627</b>	<b>9,459</b>	<b>7,771</b>	<b>7,021</b>	<b>8,469</b>	<b>7,077</b>	<b>4,845</b>	<b>2,793</b>	<b>2,793</b>
Issuance of Series 2011 Notes (includes minimum cash on hand assumption)	-	-	-	-	-	-	-	-	-	-	-
Interest on Series 2011 Notes	-	-	-	-	-	-	-	-	-	-	-
Issuance of Series 2011 DIP Notes	-	-	-	-	-	-	-	-	-	-	-
<b>Adjusted Cash Position - Forbearance and Financing Costs</b>	<b>18,518</b>	<b>7,367</b>	<b>9,627</b>	<b>9,459</b>	<b>7,771</b>	<b>7,021</b>	<b>8,469</b>	<b>7,077</b>	<b>4,845</b>	<b>2,793</b>	<b>2,793</b>



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# Appendix C

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## The Franchisor Consent Agreement

## CONSENT AGREEMENT

**THIS CONSENT AGREEMENT**, made May 25, 2011, by Prizm Income Fund, Prizm Canadian Operating Trust, Prizm Inc., Prizm LP and Kit Finance Inc. (collectively, the "**Prizm Entities**"), Soul Restaurants Canada Inc. (formerly 7716443 Canada Inc.) ("**Soul**") and Yum! Restaurants International (Canada) Company (the "**Franchisor**").

### RECITALS:

- A. Prizm LP (the "**Vendor**") and the Franchisor are parties to a master franchise agreement dated November 10, 2003, as amended November 25, 2009 (collectively, the "**Master Franchise Agreement**"). Pursuant to the Master Franchise Agreement, the Vendor and the Franchisor are deemed to have entered into a franchise agreement with respect to each franchised outlet operated by the Vendor pursuant to the Master Franchise Agreement (such deemed franchise agreements hereinafter referred to as the "**Franchise Agreements**"). The Master Franchise Agreement is in full force and effect as of the date hereof;
- B. Pursuant to an Amended and Restated Asset Purchase Agreement dated May 17, 2011 (the "**Soul Agreement**") between the Vendor, Prizm Inc. and Soul, the Vendor has agreed to sell to Soul all the assets and undertaking of the Vendor and all the Vendor's rights and interest under the Master Franchise Agreement and the Franchise Agreements as they relate to the Outlets (as defined in the Soul Agreement). All the assets, undertaking, rights and interests purchased by or transferred to Soul pursuant to the Soul Agreement are herein referred to as the "**Purchased Assets**";
- C. Pursuant to the Master Franchise Agreement and the Franchise Agreements, the transfer of the Purchased Assets, including the assignment of the Vendor's rights and entitlements under the Master Franchise Agreement and the Franchise Agreements in respect of each of the Outlets, is subject to the Franchisor's consent.

### TERMS OF AGREEMENT:

1. This consent agreement (the "**Consent Agreement**") is made in consideration of:
  - (a) the mutual covenants and conditions herein;
  - (b) the provisions of the Soul Agreement and the transactions provided therein; and

- (c) the consent of the Franchisor to the assignment and transfer by the Vendor of the Purchased Assets.

2. Subject to the satisfaction by the applicable party of its conditions set out in Section 3 herein, the Franchisor hereby consents to the sale of the Purchased Assets, including the assignment of the Vendor's rights under the Master Franchise Agreement and the Franchise Agreements each as they relate to each of the Outlets (the "Assigned Agreements") pursuant to the Assignment Agreement attached hereto as Exhibit 1, in accordance with the Soul Agreement.

3. The consent of the Franchisor herein is subject to the fulfillment of the following conditions on or before the closing of the transactions provided in the Soul Agreement (the "Closing"). The conditions herein are for the exclusive benefit of the Franchisor and may only be waived, in whole or in part, in writing by the Franchisor in its sole and absolute discretion at any time:

- (a) the order issued by the Ontario Superior Court of Justice (Commercial List) approving the Soul Agreement (the "Order") shall provide for the payment to the Franchisor of:

- i. the amount of \$5,900,950.07 payable on Closing in respect of all pre-filing monetary obligations owed under the Assigned Agreements;
- ii. the amount of \$1,838,726.40 payable on Closing in respect of all unpaid post-filing continuing fees and other monetary accruals (exclusive of interest) accrued with respect to the Outlets for the period up to and including May 15, 2011;
- iii. an amount, not to exceed \$1.5-million, in respect of all unpaid post-filing continuing fees and other monetary accruals (exclusive of interest) accrued with respect to the Outlets for the period from May 16, 2011 to Closing within three business days of such amount being calculated by the Vendor and agreed upon by the Franchisor and the Monitor;
- iv. the amount of C\$1,100,909.34, payable on Closing in respect of transfer fees payable under the Assigned Agreements, including applicable taxes, with respect to the transfer of the Outlets;

and shall be in form and substance, including but not limited to the quantum of the amounts outlined above, satisfactory to the Franchisor. The Franchisor acknowledges that the form of Order attached hereto as Exhibit 2 is satisfactory.

(b) the amounts payable to the Franchisor and identified in clauses 3. (a)i, (a)ii and (a)iv above shall have been paid on Closing;

(c) the Shareholder Deeds (guarantees) executed by Aly Janmohamed and Shiraz Boghani, attached hereto as Exhibit 3, shall, as of the Closing, be in full force and effect.

4. The Shareholder Deeds (guarantees) executed by Aly Janmohamed and Shiraz Boghani, attached hereto as Exhibit 3 and the letter agreement binding Soul to complete the Franchise Outlet Upgrade and Renovation Schedule attached hereto as Exhibit 4, shall survive the Closing.

5. Franchisor confirms to Soul that:

(a) the Assigned Agreements are in full force and effect as of the date hereof and will continue in full force and effect following their assignment to Soul; and

(b) no consent or approval of the Franchisor or its affiliates, other than as provided in this Consent Agreement, is required for the purchase and sale of the Purchased Assets as provided in the Soul Agreement;

6. Upon payment of applicable renewal fees, Soul and the Franchisor will execute, within 30 days after the Closing, the Franchisor's current form of franchise agreement attached hereto as Exhibit 5 with respect to each of the Outlets included in the Purchased Assets, in the case of each Outlet for the balance of the term, the length of renewal term and renewal date as set forth in the Assigned Agreements and which, when entered into by the Franchisor and Soul and together with the undertaking to complete the Franchise Outlet Upgrade and Renovation Schedule as provided in subsection 3(f), will replace and supercede the rights and obligations of Soul under the Assigned Agreements.

7. The validity, interpretation and performance of this Consent Agreement will be controlled and construed under the laws applicable in the Province of Ontario.

8. The waiver by the Franchisor of a breach of any provision hereof will not be taken or held to be a waiver of the provision itself unless such a waiver is expressed in writing.

9. If any term, covenant, or condition of this Agreement or the application thereof shall, to any extent, be deemed invalid or unenforceable, the remainder of the

Agreement shall not be affected thereby and all of the covenants and conditions shall be enforced to the fullest extent permitted by law.

10. Any and all amendments, alterations, or additions to this Agreement must be in writing and executed by an authorized representative of each of the Franchisor, the Prizm Entities and Soul; provided however that the Franchisor and Soul shall have the right to enter into agreements relating to the Outlets and the rights between the Franchisor and Soul as franchisor and franchisee from and after the Closing without the Prizm Entities being a party thereto.

11. This Agreement may be executed in counterparts. This Agreement may be delivered by facsimile transmission. Once each party shall have executed a counterpart hereof and delivered each counterpart to the others by facsimile transmission or otherwise, all such counterparts shall constitute a single original hereof.

**The remainder of this page left intentionally blank.**

Signature page to Consent Agreement.

THEREFORE the parties hereto have executed this Agreement as of the date above written.

PRISZM INCOME FUND  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per: DMC c/s  
Name: Deborah Papernick  
Title: CEO

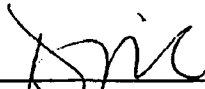
PRISZM CANADIAN OPERATING TRUST  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per: DMC c/s  
Name: Deborah Papernick  
Title: CEO

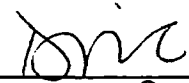
PRISZM Inc.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per: DMC  
Name: Deborah Papernick  
Title: CEO

PRISZM LP,  
by its general partner, PRISZM INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability.

per:   
Name: Deborah Papernick  
Title: CRU

KIT FINANCE INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per:  c/s  
Name: Deborah Papernick  
Title: CRU

SOUL RESTAURANTS CANADA INC.

per: \_\_\_\_\_ c/s  
Name:  
Title:  
I have authority to bind the corporation.

YUM! RESTAURANTS INTERNATIONAL  
(CANADA) COMPANY

per: \_\_\_\_\_ c/s  
Name:  
Title:  
I have authority to bind the corporation.

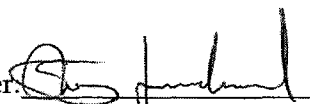
PRISZM LP,  
by its general partner, PRISZM INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability.

per: \_\_\_\_\_  
Name:  
Title:

KIT FINANCE INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per: \_\_\_\_\_ c/s  
Name:  
Title:

SOUL RESTAURANTS CANADA INC.

per:  \_\_\_\_\_ c/s  
Name: SYED JANNOHAMED  
Title: DIRECTOR  
I have authority to bind the corporation.

YUM! RESTAURANTS INTERNATIONAL  
(CANADA) COMPANY

per: \_\_\_\_\_ c/s  
Name:  
Title:  
I have authority to bind the corporation.



PRISZM LP,  
by its general partner, PRISZM INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability.

per: \_\_\_\_\_  
Name:  
Title:

KIT FINANCE INC.  
by 2279549 ONTARIO INC.,  
solely in its capacity as Chief Restructuring Officer,  
and without personal or corporate liability

per: \_\_\_\_\_ c/s  
Name:  
Title:

SOUL RESTAURANTS CANADA INC.

per: \_\_\_\_\_ c/s  
Name:  
Title:  
I have authority to bind the corporation.

YUM! RESTAURANTS INTERNATIONAL  
(CANADA) COMPANY

per: [Signature] c/s  
Name: Sabina Rizvi  
Title: Chief financial officer  
I have authority to bind the corporation.

**Exhibit 1**  
**Assignment Agreement**

## ASSIGNMENT OF FRANCHISE AGREEMENTS

THIS AGREEMENT dated May 17, 2011 to become effective on the Closing (as defined in the Soul Agreement (defined below)).

### BETWEEN:

**PRISZM LP**

(the "Vendor")

- and -

**SOUL RESTAURANTS CANADA INC.**

(the "Purchaser")

### RECITALS:

A. The Vendor and Yum! Restaurants International (Canada) LP (the "Franchisor") are parties to the Master Franchise Agreement dated November 10, 2003, as amended by the Master Franchise Agreement Amendment Agreement dated November 25, 2009 and any and all renewals thereto, a complete copy of which is annexed hereto as Schedule 2 (collectively the "Master Franchise Agreement").

B. Pursuant to the Master Franchise Agreement, the Franchisor and the Vendor are deemed to have executed a separate and individual franchise agreement for each outlet in the form of the International Franchise Agreement attached to the Master Franchise Agreement.

C. A number of affiliates of the Vendor (together with the Vendor, the "Priszm Entities") sought and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pursuant to the Initial Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice dated March 31, 2011.

D. The Vendor, Priszm Inc. and the Purchaser have entered into an Amended and Restated Asset Purchase Agreement dated May 18, 2011 (the "Soul Agreement"), pursuant to which the Purchaser has agreed to purchase and the Vendor has agreed to sell all properties, assets, interests and rights of the Vendor which are related to the operation of Outlets (as defined in the Soul Agreement and listed in Schedule "G" to the Soul Agreement) and are necessary to conduct the business as now conducted at the Outlets, other than the Excluded Assets (as defined in the Soul Agreement);

E. The Vendor wishes to assign to the Purchaser the Master Franchise Agreement individual franchise agreements that relate to each of the Outlets (the “**Franchise Agreements**”) and the Master Franchise Agreement to the extent it relates to the Franchise Agreements and the Outlets.

**IN CONSIDERATION** of the premises and agreements in this Agreement, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), the parties agree as follows:

1. Subject to the consent of the Franchisor being obtained, the Vendor hereby assigns, transfers, and conveys to the Purchaser and the Purchaser hereby accepts all of the Vendor’s rights, title, obligations and interests in the Franchise Agreements and the Master Franchise Agreement to the extent it relates to the Franchise Agreements and the Outlets) from and after Closing (as defined in the Soul Agreement) to have and to hold for the remaining term and any renewal or renewals thereof.

2. The Purchaser acknowledges that as a result of such assignment set out in Section 1 above, it shall be required to observe, honour and perform the covenants, conditions, obligations, and agreements of the franchisee contained in the Franchise Agreements and the Master Franchise Agreement (to the extent assigned herein) which arise from and after Closing. The Purchaser shall not be liable for any liabilities, covenants or obligations of the franchisee for any period prior to the Closing.

3. This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties and the Franchise Agreements and the Master Franchise Agreement (to the extent assigned herein) shall enure to the benefit of the Purchaser and be binding upon the successor and permitted assigns of the Purchaser.

4. Each of the Vendor and the Purchaser will from time to time hereafter execute and deliver all such further documents and instruments, provide all such further information and do all such other acts and things as may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

*[remainder of page intentionally left blank]*

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement effective as of the date written above.

**PRISZM LP,**  
by its general partner, **PRISZM INC.**  
by 2279549 **ONTARIO INC.**, solely in its  
capacity as **Chief Restructuring Officer**

Per:

  
\_\_\_\_\_

Name: *Deborah Popernich*

Title: *CRO*

**SOUL RESTAURANTS CANADA INC.**

Per:

\_\_\_\_\_

Name:

Title:

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement effective as of the date written above.

**PRISZM LP,  
by its general partner, PRISZM INC.  
by 2279549 ONTARIO INC., solely in its  
capacity as Chief Restructuring Officer**

Per: \_\_\_\_\_  
Name:  
Title:

**SOUL RESTAURANTS CANADA INC.**

Per:           *Aly Janmohamed*            
Name: / **ALY JANMOHAMED**  
Title: **PRESIDENT**

**Exhibit 2**  
**Approved Form of Draft Order**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
 )  
JUSTICE MORAWETZ ) MONDAY, THE 30<sup>TH</sup>  
 DAY OF MAY, 2011

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 PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST,  
PRISZM INC. AND KIT FINANCE INC.

(the "**Applicants**")

**APPROVAL AND VESTING ORDER  
(Re Sale to Soul Restaurants Canada Inc.)**

**THIS MOTION**, made by Priszm Income Fund, Priszm Canadian Operating Trust, Priszm Inc., Priszm LP and Kit Finance Inc. (collectively, the "**Priszm Entities**") for an order approving the sale transaction (the "**Soul Transaction**") contemplated by the Amended and Restated Asset Purchase Agreement (the "**Soul Agreement**") between Priszm LP (the "**Vendor**"), Priszm Inc. and Soul Restaurants Canada Inc. (formerly 7716443 Canada Inc.) (the "**Purchaser**") dated May 6, 2011, appended to the Affidavit of Deborah Papernick sworn May 24, 2011 (the "**May 24 Affidavit**") as Exhibit "A", approving certain related agreements, and vesting in the Purchaser the Vendor's right,



title and interest in and to the Purchased Assets, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the May 24 Affidavit, the Second Report (the "**Second Report**") of FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Prizm Entities (the "**Monitor**") and the Confidential Supplement thereto (the "**Confidential Supplement**"), and on hearing the submissions of counsel for the Prizm Entities, the Monitor, the Purchaser, Yum! Restaurants International (Canada) Company (the "**Franchisor**"), Prudential Investment Management, Inc. [**NAMES OF OTHER PARTIES APPEARING**], no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that any defined term used but not defined herein shall have the meaning ascribed to such term in the Soul Agreement.
2. **THIS COURT ORDERS AND DECLARES** that the Soul Transaction, the Soul Agreement, the Transition Services Agreement (as defined in and in the form attached to the May 24 Affidavit as Exhibit "C") and the Occupation Agreement (as defined in and in the form attached to the May 24 Affidavit as Exhibit "D") are hereby approved. The Prizm Entities and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Soul Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets shall vest, without further instrument of transfer or assignment, absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Amended and Restated Initial Order of the Honourable Madam Justice Mesbur dated April 29, 2011 (the "**Initial Order**"), or any subsequent charges that may be granted by the Court; (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Civil Code of Québec*, and the *Personal Property Security Act* (British Columbia) or any other personal property registry system; and, for greater certainty, this Court orders that all of the encumbrances or charges affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that on Closing the Purchaser shall pay the Purchase Price to the Monitor (less the amount of the Deposit which has previously been paid to the Monitor). After receipt of the Purchase Price, the Monitor shall:

- (a) pay from the Purchase Price to the Franchisor \$5,900,950.07, in respect of pre-filing monetary obligations owed under the Franchise Agreement (as defined below) in connection with the assignment of the Outlets to the Purchaser;
- (b) pay from the Purchase Price to the Franchisor \$1,838,726.40, in respect of unpaid continuing fees and other monetary accruals (exclusive of interest) accrued with respect to the Outlets during the period from March 31, 2011 to and including May 15, 2011;
- (c) pay from the Purchase Price to the Franchisor the amount, not to exceed \$1.5 million, of the unpaid continuing fees and other monetary accruals (exclusive of interest) accrued with respect to the Outlets during the period from May 16, 2011 to Closing within three business days of such amount being calculated by the Vendor and agreed upon with the Franchisor and the Monitor;
- (d) pay from the Purchase Price to the Franchisor \$1,100,909.34, in respect of transfer fees payable to the Franchisor pursuant to the Franchise Agreement for each Outlet in consideration for the Franchisor's consent to the sale of the Purchased Assets and the assignment of the Franchise Agreements for each Outlet and the Master Franchise Agreement as it relate to the Outlets pursuant to the Soul Agreement;

- (e) pay from the Purchase Price to the Purchaser or, at its direction, Bank of Montreal when due any refunds and other amounts referred to in paragraph 5; and
- (f) hold the remainder of the Purchase Price subject to this Order and further Order of this Court.

5. **THIS COURT ORDERS** that any refund of a portion of the Purchase Price to the Purchaser, or at its direction Bank of Montreal, pursuant to Section 8(8) of the Soul Agreement, any Current Assets Purchase Price Adjustment in favour of the Purchaser, and any reimbursement of Occupation Costs pursuant to Section 2 of the Occupation Agreement, shall be paid by the Monitor to the Purchaser or, at its direction, the Bank of Montreal from the Purchase Price being held by the Monitor pursuant to Section 4 hereof in priority to any other payment from such funds or any Claim (including any Claim by a Chargee (as defined in the Amended and Restated Initial Order of the Honourable Madam Justice Mesbur dated Friday, April 29, 2011)).

6. **THIS COURT ORDERS** that notwithstanding the holding of the Purchase Price by the Monitor the Purchase Price is not being and shall not be deemed to be held in trust for any specific party or specific parties and for purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets held by the Monitor, after payment in full of any refunds and other payments to the Purchaser (or, at its direction, Bank of Montreal) from the Purchase Price described in paragraph 5 hereof, shall stand in the place and stead of the Purchased Assets, and that

from and after the delivery of the Monitor's Certificate, all Claims, charges and encumbrances shall attach to the net proceeds from the sale of the Purchased Assets, subject to paragraph 5 hereof, with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchaser regarding fulfillment of conditions to closing under the Soul Agreement and shall have no liability with respect to delivery of the Monitor's Certificate or with respect to any payments made by the Monitor pursuant to paragraph 4 hereof.

9. **THIS COURT ORDERS** that the Prizm Entities, the CRO (as defined in the Initial Order), Deborah Papernick and Jim Robertson are hereby released and discharged from any and all actions, causes of action, liabilities, claims and demands whatsoever which the Franchisor and its affiliates ever had, now have or may hereafter have by reason of any cause, matter or thing whatsoever existing up to the date of Closing and arising out of, related to, or in connection with the Franchise Agreement for each Outlet and the Master Franchise Agreement as it relates to the Outlets, any collateral franchise documentation relating to the Franchise Agreements for each Outlet

and the Master Franchise Agreement as it relates to the Outlets, or the Business (as such term is defined in the Franchise Agreements for each Outlet) carried on at the Outlets, save and except for the obligation to pay any of the amounts referred to in paragraph 4 hereof.

10. **THIS COURT ORDERS** that the Franchisor and its affiliates are hereby released and discharged from any and all actions, causes of action, liabilities, claims and demands whatsoever which the Prizm Entities ever had, now have or may hereafter have by reason of any cause, matter or thing whatsoever existing up to the date of Closing and arising out of, related to, or in connection with the Franchise Agreement for each Outlet and the Master Franchise Agreement as it relates to the Outlets, any collateral franchise documentation relating to the Franchise Agreements for each Outlet and the Master Franchise Agreement as it relates to the Outlets, or the Business (as such term is defined in the Franchise Agreements for each Outlet) carried on at the Outlets, save and except for the obligation to pay \$163,319.09 owing by the Franchisor to the Prizm Entities.

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Vendor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendor's records pertaining to the Vendor's past and current employees in Ontario, British Columbia and Quebec. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal

information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendor.

12. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Vendor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order and the obligations of the Vendor under the Soul Agreement, the Occupation Agreement and the Transition Services Agreement (including the potential obligation to refund any portion of the Purchase Price to the Purchaser pursuant to Section 8(8) of the Soul Agreement, the potential obligation to make the Current Asset Purchase Price Adjustment pursuant to Section 10(2) of the Soul Agreement, and the potential obligation to reimburse excess Occupation Costs pursuant to Section 2 of the Occupation Agreement), shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendor and shall not be void or voidable by creditors of the Vendor, nor shall any of them constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other

applicable federal or provincial legislation, nor shall any of them constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

13. **THIS COURT ORDERS AND DECLARES** that the Soul Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

14. **THIS COURT ORDERS AND DECLARES** that the Soul Transaction is exempt from any requirement under any applicable federal or provincial law to obtain unitholder or shareholder approval.

15. **THIS COURT ORDERS** that the Confidential Supplement be kept sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice which sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court.

16. **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 Vendor and its 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 Monitor, as an officer of this Court, as may be necessary



or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

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**Schedule "A"**  
**Form of Monitor's Certificate**

Court File No. CV-11-9159-00CL

**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 PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST,  
PRISZM INC. AND KIT FINANCE INC.

(the "**Applicants**")

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated March 31, 2011, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of, *inter alia*, Priszm Limited Partnership (the "**Vendor**").

B. Pursuant to an Order of the Court dated May ●, 2011, the Court approved the Amended and Restated Agreement of Purchase and Sale made as of May 13, 2011 (the "**Soul Agreement**") between the Vendor, Priszm Inc. and Soul Restaurants Canada Inc. (formerly 7716443 Canada Inc.) (the "**Purchaser**") and provided for the vesting in the Purchaser of the Vendor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate certifying (a) receipt of the Deposit and the

balance of the Purchase Price by the Monitor; and (b) receipt of confirmation from the Vendor and the Purchaser that the conditions to Closing as set out in section [15] of the Soul Agreement have been satisfied or waived by the Vendor and the Purchaser, as applicable.

C. Unless otherwise indicated herein, defined terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Soul Agreement.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received the Deposit and the balance of the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Soul Agreement;
2. The Monitor has received confirmation from the Vendor and the Purchaser that the conditions to Closing as set out in section 15 of the Soul Agreement have been satisfied or waived by the Vendor and the Purchaser, as applicable; and
3. This Certificate was delivered by the Monitor to the Purchaser at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**FTI Consulting Canada Inc., in its capacity  
as the Court-appointed Monitor of the  
Prizm Entities and not in its personal  
capacity**

Per: \_\_\_\_\_  
Name:  
Title:

**Exhibit 3**  
**Shareholder Deed**

**Exhibit 4**  
**Franchise Outlet Upgrade and Renovation Schedule**

**Exhibit 5**  
**Form of International Franchise Agreement**

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# Appendix D

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**Confidential Analysis of the Soul Purchase Price**

**(Appendix subject to a request for a Sealing Order)**

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# Appendix E

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**Canaccord Genuity Engagement Letter (Redacted)**



## STRICTLY PRIVATE AND CONFIDENTIAL

January 27, 2011

Prizm Income Fund  
101 Exchange Avenue  
Vaughan, Ontario  
L4K 5R6 Canada

Attention: Ms. Deborah Papernick

Dear Sirs/Mesdames:

We understand that Prizm Income Fund (the "Company") is considering selling a number of its restaurant locations, including potentially all of its remaining locations (the "Transaction"). The purpose of this letter is to appoint Canaccord Genuity ("Canaccord Genuity", "we" or other pronouns indicating Canaccord Genuity) to act as financial advisor and sales agent to the Company in connection with the Transaction and to record our mutual understanding and agreement regarding the scope and terms of Canaccord Genuity's engagement.

1. **Appointment and Engagement.** By its acceptance of this letter, the Company hereby appoints Canaccord Genuity, and we agree to act, as financial advisor and sales agent to the Company in connection with the Transaction on the terms and subject to the conditions as set forth below.

This engagement of Canaccord Genuity pertains only to the Transaction and does not extend to any other transaction or matter.

2. **Services to be Rendered by Canaccord Genuity.** Canaccord Genuity will provide the following financial advisory services to the Company in connection with the Transaction:

- (a) reviewing the Company's business plans, budgets and financial projections;
- (b) performing a financial analysis of the Company;
- (c) financial modeling of the Company, including a detailed pro forma financial analysis of the entity which would result from the current pending sale of restaurants in the Ontario and British Columbian markets, together with various financial scenarios

Calcutta  
London  
San Francisco  
Chicago  
Houston  
Toronto  
Montreal  
New York  
Boston  
Edinburgh  
London

and alternative transaction structures, and such other financial modeling as may reasonably be required;

- (d) providing financial and market analysis to the extent necessary to complete the Transaction;
- (e) providing on-going tactical advice to the Company in relation to the corresponding stakeholders, dependent on the nature of the Transaction;
- (f) assisting in coordinating and implementing all aspects of the Transaction, including preparing and assembling documentation, presentations and other due diligence materials to assist potential buyers in evaluating the Company;
- (g) identifying and, together with you, soliciting prospective buyers;
- (h) evaluation and assessment of all expressions of interest and proposals received in connection with the Transaction and making recommendations with respect to such expressions of interest and proposals;
- (i) advising with respect to the material terms and conditions of the Transaction;
- (j) advising and assisting the Company's management in making presentations to the Company's Board of Trustees and Directors about a proposed Transaction, as requested;
- (k) counseling the Company as to strategy and tactics for discussions and negotiations, as appropriate, with the various stakeholders, including, but not limited to the holder of the senior facility, convertible debenture holders and the Class A Unitholders, as the case may be, and, if requested by the Company, participating in such discussions and negotiations;
- (l) advising and assisting the Company in connection with definitive transaction agreements associated with the Transaction;
- (m) advising with respect to a communications strategy to key stakeholder groups;
- (n) assistance with the preparation of public offering documents and press releases in connection with the Transaction, if required;
- (o) appearance before the court to explain and substantiate the sale process undertaken, as required; and
- (p) provision of such other advice and assistance as may reasonably be requested by the Company with respect to the Transaction.

Any of the above services may be provided to the Company, the Board or a Special Committee of the Board. Any Fairness Opinion delivered pursuant to this engagement is herein referred to as a "Report".

3. **Additional Services.** The engagement of Canaccord Genuity to perform any services in addition to those described above (including in connection with the preparation and delivery of any fairness or other opinion or in connection with any solicitation of shares or proxies) shall be set forth in, and subject to the terms and conditions of, a separate letter agreement and the fees for such services will be negotiated separately in good faith and will be consistent with fees paid to investment bankers in North America for similar services.

4. **Opinion Qualifications.** Any oral or written opinions or advice provided by Canaccord Genuity to the Company will be made subject to and will be based upon any assumptions, limitations, qualifications and reservations as we, in our professional judgment, deem necessary or prudent in the circumstances.

5. **Disclosure of Our Advice and this Engagement.** The Company agrees not to disclose to any third party the existence or contents of this agreement or any written or oral opinions, advice or materials provided by Canaccord Genuity to the Company without the prior consent of Canaccord Genuity, which consent shall not be unreasonably withheld; provided, however, that our advice (i) may be reproduced in any public disclosure document of the Company relating to any Transaction if such disclosure is required by applicable law and has been reviewed and approved by Canaccord Genuity; (ii) may be referred to in the Company's minutes; (iii) may be shared with the holders of the Company's senior secured notes; and (iv) otherwise may be disclosed by the Company to the extent required by applicable law (in which case prior notice will be given by the Company to us).

Canaccord Genuity expressly disclaims any liability or responsibility by reason of any unauthorized use, publication, distribution of or reference to any oral or written opinions, advice or materials provided by us or any unauthorized reference to Canaccord Genuity or this engagement.

6. **Right to Withdraw Report.** If (i) Canaccord Genuity becomes aware of any information not disclosed to it, or known by it at the time of the delivery of any Report, regardless of the source, which in its reasonable opinion would make the Report misleading in any material respect, untrue, or inaccurate or would result in an omission to state therein any material fact necessary in order to make such Report not misleading in the light of the circumstances in which it was made and which is not reflected or contemplated in the Report, or (ii) Canaccord Genuity reasonably concludes that there has been a material change in the business or affairs of the Company or any of its subsidiaries or a material change in the Transaction or in the information contained in the Report following the date thereof or in any of the material information or facts upon which the Report is based or that any intervening event has occurred after the date of the Report which materially affects the valuations contained in or conclusions drawn in the Report, Canaccord Genuity shall be entitled to amend, supplement or withdraw the Report previously provided but shall be entitled to retain any fees paid to date.

7. **Obligation to Render Report.** Canaccord Genuity will not be obliged to provide any Report hereunder unless the Company has complied in all material respects with the provisions in paragraphs 11, 12 and 13 of this agreement up to the time of delivery of the Report.

8. **Fees.** For our services hereunder, the Company will pay to Canaccord Genuity:

- (a) an engagement fee of [REDACTED] payable upon execution of this letter agreement. The engagement fee will be credited against any Transaction Fee (as defined below) which becomes payable under this letter agreement; and
- (b) [REDACTED] of the aggregate gross proceeds received by the Company from the first [REDACTED] [REDACTED] of gross proceeds and [REDACTED] of the aggregate gross proceeds received by the Company in excess of [REDACTED] from the associated Transactions ("Transaction Fee"). For greater certainty, the proceeds will exclude the current sale of the Ontario and British Columbian markets to the extent it closes in its current form to the current acquiror.

The Transaction Fee will be payable in respect of any restaurants sold, identified by us or you prior to the closing date, where the sale is completed during the term of this agreement, or is identified by us prior to the earlier of the closing date or the date of termination of this agreement, where the sale is completed either during the term of this agreement or within 12 months following the termination of this agreement. Such Transaction Fee which becomes payable under this letter agreement shall be payable in cash, by certified cheque or wire transfer in same day funds from the gross proceeds of the Transaction, payable on the closing date of the associated Transactions.

9. **Expenses.** The Company will also reimburse Canaccord Genuity for all reasonable out-of-pocket expenses incurred by Canaccord Genuity in entering into and performing this agreement, including but not limited to reasonable travel and communication expenses, courier charges and the reasonable fees and disbursements of Canaccord Genuity's legal counsel in respect of advice rendered to Canaccord Genuity in relation to its obligations hereunder, and the reasonable fees and disbursements of any other consultants engaged by Canaccord Genuity with the prior consent of the Company. Such reimbursable expenses will be payable by the Company upon receipt of Canaccord Genuity's invoices.

10. **Taxes.** All or part of any of the fees and other expenses contemplated to be paid to Canaccord Genuity under this agreement may be subject to Federal Goods and Services Tax in which event a corresponding additional amount will be payable by the Company to Canaccord Genuity.

11. **Access to Information.** The Company will arrange for Canaccord Genuity to have such timely access to the directors, officers, employees, independent auditors, counsel and other consultants and corporate information of the Company and its subsidiaries as we may reasonably require or deem appropriate in carrying out our engagement hereunder. The Company will disclose to us on a timely basis the existence and content of, and will furnish us with, or arrange that we be furnished with, all information (financial or otherwise), data, opinions, appraisals, valuations and other information and materials of whatsoever nature or kind within the Company's possession, control, or direction or in respect of which the Company can, using all reasonable best efforts, obtain possession, control or direction relating to any proposed Transaction and which we may reasonably require or deem appropriate in carrying out our engagement hereunder. The Company agrees that it will not participate in any negotiations with any party regarding a Transaction except through or with the knowledge of Canaccord Genuity.

12. **Accuracy of Information.** The Company represents and warrants to Canaccord Genuity, and will ensure, that all information concerning the Company and its subsidiaries provided

to us, directly or indirectly, orally or in writing, by the Company and its subsidiaries, and their respective agents and advisors in connection with our engagement hereunder will be true, accurate and complete in all material respects and will not be misleading in any material respect and will not omit to state any fact or information which might reasonably be considered material to any matter contained in any Report or to our engagement hereunder. The senior officers of the Company will provide to Canaccord Genuity certificates as to the accuracy and completeness of all such information provided in such form as may be reasonably required by Canaccord Genuity from time to time, and our agreement to deliver any opinions shall be subject to receipt thereof.

In carrying out services hereunder, Canaccord Genuity will necessarily be relying on publicly available information and representations (oral or written), data and information prepared or supplied by the Company and its agents and advisors. We will be entitled to rely on, and are under no obligation to verify independently, the accuracy or completeness of such representations, data or information. Further, we are under no obligation to investigate any changes which may occur in such information subsequent to the date thereof.

13. **Update to Information.** The Company will advise us promptly of any material change of which it is or becomes aware relating to the securities, assets, business or affairs of the Company or any of its subsidiaries or the information provided to us that might reasonably be considered relevant to our engagement hereunder. The Company agrees to comply promptly with all applicable requirements of regulatory authorities in respect of the occurrence of such material change.

The Company will ensure that, until completion of a Transaction, Canaccord Genuity is provided, on a timely basis, with all information and documentation, including current drafts and final copies of all documents or other material filed or to be filed by the Company or any of its affiliates with any securities commission, stock exchange or regulatory authority, domestic or foreign, respecting any proposed Transaction which might reasonably be considered relevant to this engagement, and that Canaccord Genuity is informed on a prompt and timely basis of any communication to or request made of the Company or, if within the Company's knowledge, of any other person from any securities commission, stock exchange or regulatory authority, domestic or foreign, which might reasonably be considered relevant to this engagement, in each case relating to the Company and its subsidiaries, any other transaction or any Report.

14. **Confidentiality.** We will keep and cause each of our directors, officers, employees, agents and advisors to keep strictly confidential and will use only for the purpose of performing our obligations hereunder all information, whether written or oral, acquired from the Company, its agents and advisors in connection with our work hereunder (collectively "Information") except information that (i) is or becomes generally available to the public (other than as a result of a disclosure by Canaccord Genuity), (ii) was in the possession of Canaccord Genuity on a nonconfidential basis prior to its disclosure by the Company, (iii) becomes available to Canaccord Genuity on a nonconfidential basis from a person other than the Company who, to the knowledge of Canaccord Genuity, is not bound by a confidentiality agreement with the Company or otherwise prohibited from transferring such information to Canaccord Genuity, (iv) the Company agrees may be disclosed or (v) Canaccord Genuity is requested pursuant to, or required by, law, regulation, legal process or regulatory authority to disclose. If we are required by legal process or otherwise requested to disclose any Information, we will provide the Company with prompt notice of such request or requirement, so that the Company may seek an appropriate protective order or waive

compliance with this requirement. In the event such protective order is not obtained, the Company agrees that such disclosure may be made without liability hereunder.

15. **Indemnification.** The Company hereby agrees to indemnify Canaccord Genuity and certain other parties in accordance with Schedule "A" hereto, which Schedule forms part of this letter agreement and the consideration for which is the entering into of this letter agreement. Such indemnity (the "Indemnity") shall be in addition to, and not in substitution for, any liability which the Company or any other party may have to us or the other parties indemnified thereby apart from such Indemnity.

16. **Advertisements or Announcements.** Canaccord Genuity may, at its own expense, place advertisements or announcements in any newspapers, periodicals or other publications, or otherwise disclose to third parties, that Canaccord Genuity has acted as financial advisor to the Company in connection with the matters contemplated hereby. Canaccord Genuity will provide copies of such advertisements or announcements to the Company for prior approval, which approval shall not be unreasonably withheld.

17. **Term, Termination and Survival of Terms.** This engagement of Canaccord Genuity shall be for a period commencing on January 27, 2011 and shall continue indefinitely until termination by either party hereto by written notice of termination delivered to the other party.

Notwithstanding any termination of this letter agreement, the Company will be responsible to pay to Canaccord Genuity any amounts payable under paragraphs 8, 9 and 10.

The terms and conditions of this letter agreement and the Indemnity shall survive the completion of our engagement hereunder, any withdrawal or termination of any Transaction or decision not to proceed with any Transaction and any termination or purported termination of this letter agreement. In addition, any representations, warranties, indemnities and other agreements provided by the Company in connection with this letter agreement, including without limitation any certificate contemplated or otherwise delivered hereunder, shall remain in full force and effect regardless of any investigation made by us or on our behalf.

18. **Relationship.** The Company agrees that Canaccord Genuity has been retained to act solely as financial advisor to the Company. In such capacity Canaccord Genuity shall act as an independent contractor and any duties of Canaccord Genuity arising out of its engagement pursuant to this letter agreement shall be owed solely to the Company. The Company acknowledges that Canaccord Genuity acts as a trader and dealer, both as principal and agent, in major financial markets and, as such, may have had and may in the future have positions in the securities of the Company or any of its associates or affiliates and, from time to time, may have executed or may execute transactions on behalf of such companies or clients for which it received or may receive compensation. The Company also understands that, as an investment dealer, Canaccord Genuity conducts research on securities and may, in the ordinary course of its business, provide research reports and investment advice to its clients on investment matters, including with respect to the Company and any Transaction. In addition Canaccord Genuity may, in the ordinary course of its business, provide other financial services to the Company or any of its associates or affiliates.

19. **Other Matters.** This letter agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The agreement resulting from

this engagement letter shall be governed by and construed in accordance with the laws of the Province of Ontario and the parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Ontario. All financial references in this letter agreement are to Canadian dollars unless otherwise expressly indicated. Headings used herein are for ease of reference only and shall not affect the interpretation or construction of this letter agreement. No waiver, amendment or other modification of this letter agreement shall be effective unless in writing and signed by each party bound hereto. Time shall be of the essence of this agreement. This agreement supersedes any and all prior agreements between the Company and Canaccord Genuity in connection with any Transaction.

20. **Notices.** Any notice or other communication required or permitted to be given under this letter agreement shall be in writing and shall be sufficiently given or made by personal delivery or by telecopy or similar facsimile transmission (receipt confirmed) to the respective parties at the addresses set forth in this letter (in the case of Canaccord Genuity to the attention of the person executing this letter agreement). Any notice so given shall be deemed conclusively to have been given and received when so personally delivered or so telecopied or transmitted.

If the foregoing is in accordance with your understanding, please indicate your agreement to the above terms and conditions by signing the enclosed copies of this letter and returning the executed copies to us.

[The Remainder of This Page is Left Intentionally Blank]

Yours very truly,

**CANACCORD GENUITY CORPORATION**

*[Faint handwritten signature]*

By: \_\_\_\_\_  
Name: Jamie Nagy  
Title: Managing Director

The foregoing is in accordance with our understanding and is accepted and agreed to by us this 10 day of February, 2011.

**PRISZM INCOME FUND**

By: *[Signature]*  
Name: Deborah Papernick  
Title: Chief Financial Officer



## SCHEDULE A - Indemnification

Prizm Income Fund (the "Indemnitor") agrees to indemnify and hold harmless Canaccord Genuity Corporation ("Canaccord Genuity") and its affiliates, their respective directors, officers, employees, partners, agents and each other person, if any, controlling Canaccord Genuity or any of its affiliates (collectively, the "Indemnified Parties" and individually, an "Indemnified Party"), to the full extent lawful, from and against any and all expenses, losses, claims, actions, damages and liabilities, joint or several, (including the aggregate amount paid in reasonable settlement of any actions, suits, proceedings, investigations or claims and the reasonable fees and expenses of their counsel that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party) to which any Indemnified Party may become subject or otherwise involved in any capacity under any statute or common law or otherwise insofar as such expenses, losses, claims, actions, damages or liabilities relate to, are caused by, result from, arise out of or are based upon, directly or indirectly, the performance of professional services rendered to the Indemnitor by Canaccord Genuity under the attached letter agreement or otherwise in connection with the matters referred to in such letter agreement.

Notwithstanding the foregoing, this entire indemnity agreement shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that such expenses, losses, claims, actions, costs, damages or liabilities to which the Indemnified Party may be subject were caused by the negligence or wilful misconduct of the Indemnified Party.

The Indemnitor also agrees that no Indemnified Party will have any liability (either direct or indirect, in contract or tort or otherwise) to the Indemnitor or any person asserting claims on the Indemnitor's behalf or in right for or in connection with the performance of professional services rendered to the Indemnitor by Canaccord Genuity, except to the extent that any expenses, losses, claims, actions, costs, damages or liabilities incurred by the Indemnitor are determined by a court of competent jurisdiction in a final judgement that has become non-appealable to have resulted from the gross negligence or willful misconduct of such Indemnified Party.

If for any reason (other than a determination as to any of the events referred to in the second paragraph of this indemnity) the foregoing indemnification is unavailable to Canaccord Genuity or any other Indemnified Party or is insufficient to hold Canaccord Genuity or any other Indemnified Party harmless, the Indemnitor shall contribute to the amount paid or payable by Canaccord Genuity or any other Indemnified Party as a result of such expense, loss, claim, action, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnitor on the one hand and Canaccord Genuity or any other Indemnified Party on the other hand but also the relative fault of the Indemnitor, Canaccord Genuity or any other Indemnified Party as well as any relevant equitable considerations; provided that the Indemnitor shall in any event contribute to the amount paid or payable by Canaccord Genuity or any other Indemnified Party as a result of such expense, loss, claim, action, damage or liability in excess of such amount over the amount of the fees received by Canaccord Genuity under the attached letter agreement.

The Indemnitor agrees that in case any legal proceeding shall be brought against the Indemnitor and/or Canaccord Genuity or any other Indemnified Party by any governmental commission or regulatory authority or any stock exchange or other entity having regulatory authority, either domestic or foreign, shall investigate the Indemnitor and/or Canaccord Genuity or any other Indemnified Party and Canaccord Genuity or such other Indemnified Party shall be required to

testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with or by reason of the attached letter agreement, the engagement of Canaccord Genuity thereunder, or the performance of professional services rendered to the Indemnitor by Canaccord Genuity thereunder, Canaccord Genuity or such other Indemnified Party shall have the right to employ its own counsel in connection therewith, and the reasonable fees and expenses of such counsel as well as the reasonable costs (including an amount to reimburse Canaccord Genuity for time spent by its, or any of its affiliates, directors, officers, employees, partners or agents (collectively, "Personnel") in connection therewith) and out-of-pocket expenses incurred by its Personnel in connection therewith shall be paid by the Indemnitor as they occur.

Promptly after receiving notice of an action, suit, proceeding or claim against Canaccord Genuity or any other Indemnified Party or receipt of notice of the commencement of any investigation which is based, directly or indirectly, upon any matter in respect of which indemnification may be sought from the Indemnitor, an Indemnified Party will notify the Indemnitor in writing of the particulars thereof, will provide copies of all relevant documentation to the Indemnitor and, unless the Indemnitor assumes the defence thereof, will keep the Indemnitor advised of the progress thereof and will discuss all significant actions proposed. The omission so to notify the Indemnitor shall not relieve the Indemnitor of any liability which the Indemnitor may have to Canaccord Genuity or any other Indemnified Party except only to the extent that any such delay in or failure to give notice as herein required prejudices the defence of such action, suit, proceeding, claim or investigation or results in any material increase in the liability which the Indemnitor would otherwise have under this indemnity had an Indemnified Party not so delayed in or failed to give the notice required hereunder.

The Indemnitor shall have 30 days after receipt of the notice, at its own expense, to participate in and, to the extent it may wish to do so, assume the defence thereof, provided such defence is conducted by experienced and competent counsel. Upon the Indemnitor notifying Canaccord Genuity in writing of its election to assume the defence and retaining counsel, the Indemnitor shall not be liable to Canaccord Genuity or any other Indemnified Party of any legal expenses subsequently incurred by them in connection with such defence. If such defence is assumed by the Indemnitor, the Indemnitor throughout the course thereof will provide copies of all relevant documentation to Canaccord Genuity, will keep Canaccord Genuity advised of the progress thereof and will discuss with Canaccord Genuity all significant actions proposed.

Notwithstanding the foregoing paragraph, any Indemnified Party shall have the right, at the Indemnitor's expense, to employ counsel of such Indemnified Party's choice, in respect of the defence of any action, suit, proceeding, claim or investigation if: (i) the employment of such counsel has been authorized by the Indemnitor; or (ii) the Indemnitor has not assumed the defence and employed counsel therefor within 30 days after receiving notice of such action, suit, proceeding, claim or investigation; or (iii) counsel retained by the Indemnitor or the Indemnified Party has advised the Indemnified Party that representation of both parties by the same counsel would be inappropriate because there may be legal defences available to the Indemnified Party which are different from or in addition to those available to the Indemnitor (in which event and to that extent, the Indemnitor shall not have the right to assume or direct the defence on the Indemnified Party's behalf) or that there is a conflict of interest between the Indemnitor and the Indemnified Party or the subject matter of the action, suit, proceeding, claim or investigation may not fall within the

indemnity set forth herein (in either of which events the Indemnitor shall not have the right to assume or direct the defence on the Indemnified Party's behalf).

No admission of liability and no settlement of any action, suit, proceeding, claim or investigation shall be made without the consent of the Indemnified Parties affected, such consent not to be unreasonably withheld. No admission of liability shall be made and the Indemnitor shall not be liable for any settlement of any action, suit, proceeding, claim or investigation made without its consent, such consent not to be unreasonably withheld.

The Indemnitor hereby acknowledges that Canaccord Genuity acts as trustee for the other Indemnified Parties of the Indemnitor's covenants under this indemnity with respect to such persons and Canaccord Genuity agrees to accept such trust and to hold and enforce such covenants on behalf of such persons.

This indemnity and contribution obligations of the Indemnitor hereunder shall be in addition to any liability which the Indemnitor may otherwise have, shall extend upon the same terms and conditions to the Indemnified Parties and shall be binding upon and enure to the benefit of any successors, assigns, heirs and personal representatives of the Indemnitor, Canaccord Genuity and any other Indemnified Party. The foregoing provisions shall survive the completion of professional services rendered under the attached letter agreement or any termination of the authorization given by the attached letter agreement.