

Email: Deborah.papernick@prism.com

- (b) with a copy to the Vendor's solicitors:

Stikeman Elliott LLP  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

Attention: Dee Rajpal  
Facsimile: (416) 947-0866  
Email: drajpal@stikeman.com

- (c) with a copy to the Monitor:

FTI Consulting Canada, Inc.  
TD Waterhouse Tower  
79 Wellington Street West  
Suite 2010, P. O. Box 104  
Toronto, ON M5K 1G8

Attention: Nigel Meakin  
Facsimile: 416-649-8101  
Email: nigel.meakin@fticonsulting.com

And its counsel:

Osler, Hoskin & Harcourt LLP  
1 First Canadian Place  
Toronto, Ontario M5X 1B8

Attention: Marc Wasserman  
Facsimile: 416-862-6666  
Email: mwasserman@osler.com

- (2) To the Purchaser:

- (a) Soul Restaurants Canada Inc.

Attention: Aly Janmohamed  
Email: aly@soulfoodsgroup.com

- (b) with a copy to the Purchaser's solicitors:

Gardiner Roberts LLP  
Suite 3100 Scotia Plaza  
40 King Street West

Toronto, ON M5H 3Y2

Attention: Arlene O'Neill  
Facsimile: (416) 865-6636  
Email: aoneill@gardiner-roberts.com

A Notice is deemed to be given and received (a) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (b) if sent by overnight courier, on the next Business Day, or (c) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (d) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic "read receipt" does not constitute acknowledgment of an email for purposes of this section. Any party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the party at its changed address. Any element of a party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a party.

#### 7.7 No Waiver

The terms of this Agreement may be waived only by a written instrument signed by the party or parties waiving compliance. No failure or delay on the part of a party in exercising any right, power or remedy provided herein may be, or may be deemed to be, a waiver thereof; nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise of such right, power or remedy or other right, power or remedy.

#### 7.8 Amendments

This Agreement may not be amended or modified in any respect except by written instrument signed by all the parties.

#### 7.9 No Assignment; Successors

No party shall be permitted to assign its rights or obligations under this Agreement without the express written consent of each of the other parties, except that the Purchaser may assign this Agreement to an Affiliate without the consent of the Vendor on the condition that the Purchaser continue to remain responsible for fulfillment of the Purchaser's obligations hereunder. This Agreement shall be binding on, and shall enure to the benefit of each party and their respective successors and permitted assigns.

#### 7.10 Non-Exclusivity

This Agreement shall not be exclusive and the Purchaser has the right, pursuant to Section 2.2(7), to terminate any one or more of the Services. The Purchaser may engage a third

party service provider to provide one or more of the Services to the Purchaser terminated pursuant to Section 2.2(7) or any other services that are not provided by the Vendor under this Agreement provided that the third party service provider shall not have and the Purchaser shall not allow such third party service provider to have access to, use of or information regarding the assets, network, or infrastructure of the Vendor.

#### 7.11 Severability

Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by applicable laws.

#### 7.12 Entire Agreement

This Agreement and the Asset Purchase Agreement constitute the entire agreement among the parties with respect to the provision of the Services. The rights and remedies herein provided shall be the exclusive rights and remedies available to the parties at law or in equity. In the event of a conflict between the terms of the Asset Purchase Agreement and this Agreement with respect to the subject matter hereof, then to the extent only of such conflict, the terms of this Agreement shall govern.


#### 7.13 Counterparts

This Agreement may be executed in counterpart and all executed counterparts taken together shall constitute one and the same agreement. Signature pages from separate counterparts may be faxed and may be combined to form a single counterpart. This Agreement shall not be binding upon any party unless and until executed by all parties.

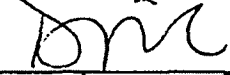
*[Remainder of Page Intentionally Left Blank]*

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

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

By:   
Name: *Deborah Popernich*  
Title: *CRO*

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

By:   
Name: *Deborah Popernich*  
Title: *CRO*

SOUL RESTAURANTS CANADA INC.

By: \_\_\_\_\_  
Name:  
Title:

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

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

By: \_\_\_\_\_  
Name:  
Title:

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

By: \_\_\_\_\_  
Name:  
Title:

SOUL RESTAURANTS CANADA INC.

By: Aly Jaramana  
Name: ALY JARAMANA  
Title: PRESIDENT

**SCHEDULE A  
DESCRIPTION OF SERVICES**

1) IT Services

**Includes**

- Software support for the Compris FOH and Menulink BOH. Includes menu maintenance, price changes, coupons, promotions, recipe updates assuming that the Franchisee maintains Prizm Menus, products and price structures.
- Addressing technical issues as well as vendor released upgrades that Prizm is implementing. Software trouble shooting for POS, Kitchen Display units and Menulink BOH.
- Fixed templates for:
  - i. Weekly P&L polling data
  - ii. Cash Revenue Report (assuming Purchaser is using Global Payments & ReconNet and has paid license fees and associated costs directly to the vendors of these platforms separate from this agreement)
  - iii. Inventory Reports
  - iv. Menu Mix
  - v. Daily Sales
  - vi. Daily Labour Efficiency

**Excludes**

- Procedural or operational issues
- High speed and debit/credit device issues
- Access or use to any financial systems (Infinium or Cognos)
- Access or use of ReconNet
- EDI text file
- High speed store connection costs
- Store and home delivery phone line costs or long distance costs
- Store POS maintenance contracts
- Sitel, YUM/Micros or Pitney Bowes costs related to home delivery
- Prizm Portal
- Turbo Meeting software
- HR eforms
- Super HR
- Blackberry server license fees and all costs associated with cellular phones or blackberries
- Laptop costs (hardware or software)
- Fees payable to YUM! for the Learning Zone

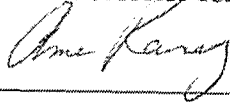
# TAB D

This is Exhibit "D"  
to the affidavit of Deborah Papernick,  
sworn before me on the 24<sup>th</sup> day

\_\_\_\_\_ of May, 2011

Anne Forrester Ramsay, a  
Commissioner etc., Province of Ontario,  
while a student-at-law.  
Expires June 17, 2013.

<sup>per</sup>  
Commissioner for Taking Affidavits





OCCUPATION AGREEMENT

THIS AGREEMENT is made as of May 17, 2011,

**BETWEEN:**

PRISZM LP, a limited partnership formed under the laws of Manitoba (the "Licensor")

- and -

PRISZM INC., a corporation established under the *Canada Business Corporations Act* (the "General Partner")

- and -

SOUL RESTAURANTS CANADA INC., a corporation incorporated under the laws of Canada (the "Licensee")

**RECITALS:**

- A. Pursuant to the leases for those outlets for which a consent, notice or assignment order have not been obtained or delivered, as contemplated by the Amended and Restated Asset Purchase Agreement of even date herewith (the "Soul Agreement"), (individually, a "Lease" and, collectively, the "Leases"), the Licensor, as lessee, leased the premises to which such Leases relate (collectively or individually, as the context requires, the "Premises") for the term and in accordance with the provisions of the Leases.
- B. On March 31, 2011, Prizm Income Fund, Prizm Canadian Operating Trust, Prizm Inc. and Kit Finance Inc. (collectively, the "Applicants") applied for and were granted protection from their creditors under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") pursuant to the Initial Order (the "Initial Order") of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the "Court"). The protections and authorizations of the Initial Order were extended to the Licensor (together with the Applicants, the "Prizm Entities"). FTI Consulting Canada Inc. (the "Monitor") was appointed as Monitor of the Prizm Entities in the CCAA proceedings.

- C. Pursuant to the Soul Agreement the Licensee has agreed to purchase from the Licensor and the Licensor has agreed to sell to the Licensee (the "Soul Transaction") all of the Licensor's right, title and interest, if any, in and to the Purchased Assets (as defined in the Soul Agreement). The Soul Transaction is conditional on obtaining an order of the Court approving the Soul Transaction.
- D. It is a term of the Soul Agreement that where the Licensee is not able to obtain the consents of such landlords to the assignment of the Leases or an order of the Court assigning such Leases (to the extent required) the Licensor shall hold the applicable Lease in trust for the Licensee, to the extent within its control, comply with the terms and provisions of the applicable lease, and cooperate with the Licensee in any reasonable and lawful arrangements designed to provide the benefits of the rights under the applicable Leases to the Licensee.

NOW THEREFORE, IN CONSIDERATION of the premises and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties hereto represent, warrant, covenant and agree as follows:

1. Occupation

In order to permit the Licensee to use the Purchased Assets and to carry on business at the Premises, the Licensor grants to the Licensee a license to occupy each of the Premises for a period (for each of the Premises, the applicable "License Period") commencing, in respect of each of the Premises, on the Closing Date (as defined in the Soul Agreement) and ending, in respect of each of the Premises, on the earlier of: (a) the date that is six (6) months from the Closing Date; (b) 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; (c) the time the applicable Lease is lawfully terminated or expires; and (d) the time the license is terminated in respect of any given Lease in accordance with Section 10 hereof.

2. Responsibilities of the Licensee

The Licensee shall be required to pay any and all rent, expenses, occupation costs and other amounts relating to the Premises which the Licensor is obligated to pay pursuant to and in accordance with the Leases, including, without limitation, per diem basic and additional rent and all costs, expenses, utilities, realty taxes and common expenses, that accrue during or that relate to the License Period and that are otherwise payable by the Licensor in connection with the occupation of the Premises by the licensee (the "Occupation Costs") with the intent that this License shall be wholly net to the Licensor. Notwithstanding the foregoing, the Occupation Costs shall not include any transfer fees which the Licensor is required to pay to the landlords in connection with the assignment of the Leases to the Licensee, or costs of the Licensor to effect that transfer or assignment to the Licensee, or other payment which may be owed by

Licensor to the landlords pursuant to the Leases arising prior to the Closing Date or in connection with the transactions contemplated by the Soul Agreement.

No later than five (5) days prior to the projected Closing Date, the Licensor shall issue to the Licensee a statement of the estimated Occupation Costs in respect of each Lease for the period from the projected Closing Date to the end of that calendar month (such period being the "Initial Stub Period"), other than amounts which are Current Assets (as defined in the Soul Agreement). The Licensee shall pay to the Licensor by banker's draft payable to the Vendor and delivered to the Vendor's office or by wire transfer directly to the Vendor's banking institution the amount set out in such statement within three (3) days after receipt thereof such that the Licensor is in receipt of the amount of the Occupation Costs for each Lease prior to the Closing Date.

The Licensor shall issue to the Licensee a statement of the estimated Occupation Costs in respect of each Lease for the next calendar month at least seven (7) days before the first day of each calendar month. The Licensee shall pay to the Licensor by banker's draft payable to the Vendor and delivered to the Vendor's office or by wire transfer directly to the Vendor's banking institution the amount set out in such statement within three (3) days after receipt thereof such that the Licensor is in receipt of the amount of the Occupation Costs for each Lease prior to the first day of each calendar month. Estimated Occupation Costs shall be reconciled against the actual Occupation Costs within thirty (30) days after the end of the applicable License Period for each Lease. In the event that the actual Occupation Costs payable under the Leases are greater than the amount paid by the Licensee in accordance with this Agreement and the Leases, the Licensee shall pay the difference to the Licensor within five (5) business days of the reconciliation being completed by banker's draft payable to the Vendor and delivered to the Vendor's office or by wire transfer directly to the Vendor's banking institution. In the event that the actual Occupation Costs payable under the Leases are less than the amount paid by the Licensee in accordance with this Agreement and the Leases, the Licensor shall reimburse the difference to the Licensee within five (5) business days of the reconciliation being completed. For purposes of the reconciliation, the amount of property taxes and other additional rents that are or may be payable with respect to the Leases shall be based on the parties' actual knowledge at the time of performing the reconciliation. To the extent that additional amounts may be owing or refundable in the future, those amounts shall be the sole responsibility or benefit of and shall be paid or received by the Licensee without recourse to or any obligation to refund the Licensor. For greater certainty, the Licensee shall not be responsible for any transfer fees which the Licensor is required to pay to the landlords in connection with the assignment of the Leases to the Licensee.

The Licensee shall deliver to the Licensor forthwith upon receipt copies of any and all invoices, bills, accounts and other communications received at the Premises in respect of costs and expenses relating to carrying on business from the Premises (including, without limitation, relating to Occupation Costs).

For greater certainty, the Licensee will be wholly responsible for all of the costs and expenses relating to carrying on business from the Premises, in accordance with and subject to the terms of the Leases.

### 3. Use of Premises

During the License Period the Licensee shall maintain the Premises in the condition that they were at the commencement of the License Period, ordinary wear and tear excepted. The Licensee shall be responsible for all repair costs in respect of the Premises during the License Period, in accordance with and subject to the terms of the Leases.

During the License Period, the Licensee shall: (a) perform all of the Licensor's obligations with respect to the Premises during the License Period, including those arising under the Leases; (b) comply with each of the provisions of the Leases and the requirements of all laws, by-laws, regulations, ordinances and orders that affect the occupation, condition, maintenance or use of the Premises; (c) comply with the requirements applicable to any insurance covering the Premises; and (d) not assign, sublet or otherwise permit any other person to occupy or use the Premises.

### 4. Indemnity

The Licensee hereby indemnifies and saves harmless the Licensor together with its employees, agents, directors, officers, servants and invitees from and against any and all claims, actions, causes of action, losses, liabilities, debts, demands, costs (including reasonable legal costs on a full indemnity basis) and expenses suffered or incurred by the Licensor, its employees, agents, directors, officers, servants and invitees or any other occupant(s) of the Premises, in connection with, or arising from: (a) the Licensee's failure to comply with this Agreement, or any one or more of the Leases during the License Period; (b) the carrying on of business by the Licensee from the Premises; (c) the Licensee's operation, occupation and/or use of the Premises; (d) any removal of the Purchased Assets from the Premises by or on behalf of the Licensee, including, without limitation, all of the acts and omissions of the Licensee, its employees, servants, agents and invitees; and (e) all claims, demands, actions, suits, causes of action, expenses, costs, damages and losses of the Licensor relating to injury or property damage suffered by third parties and/or the Licensor arising from the use or occupation of the Premises by the Licensee and those for whom it is responsible at law.

The Licensor hereby indemnifies and saves harmless the Licensee from and against any and all claims made against the Licensee for amounts which constitute Occupation Costs and the reasonable legal costs on a full indemnity basis suffered or incurred by the Licensee in connection with the defence of such claims, to the extent and only to the extent that such claimed amounts have been paid to the Licensor by the Licensee as part of the Occupation Costs in accordance with Section 2 of this Agreement.

5. Insurance

The Licensee shall arrange insurance to comply with the insurance provisions of the Leases and shall show the Licensor as additional insured in such policies. Notwithstanding anything to the contrary contained in the Leases, the Licensee shall maintain all risks insurance and public liability insurance underwritten by a nationally recognized insurance company in respect of the Premises and the property of the Licensor and Licensee located at the Premises, in such amounts and with such deductibles as a prudent tenant of similar premises would maintain.

6. Access

The Licensee agrees that during normal business hours, and upon 24 hours notice, the Licensor and the Monitor and their respective employees, servants and agents shall have access to the Premises during the License Period, including for the purpose of allowing the Monitor to fulfill its statutory duties or Court-ordered duties as Monitor, provided that it does not interfere with the business of the Licensee.

7. Representation and Warranties of the Licensee

The Licensee represents and warrants to the Licensor as follows and acknowledges that the Licensor is relying on such representations and warranties in connection with the matters contemplated by this Agreement:

- (a) This Agreement has been duly authorized, executed and delivered by the Licensee and is a valid and binding obligation of the Licensee enforceable against it in accordance with the terms hereof; and
- (b) The Licensee has the necessary expertise and financial wherewithal in order to fulfill its obligations under this Agreement.

8. Representation and Warranties of the Licensor

The Licensor represents and warrants to the Licensee that, subject to the approval of the Court, this Agreement has been duly authorized, executed and delivered by the Licensor and is a valid and binding obligation of the Licensor enforceable against it in accordance with the terms hereof, and acknowledges that the

Licensee is relying on such representations and warranties in connection with the matters contemplated by this Agreement.

9. Conditions Precedent

- (a) This Agreement is subject to the condition that the Court shall have issued an order approving the Soul Agreement, the Soul Transaction and this Agreement, which condition is for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement;
- (b) This Agreement is subject to the condition that the Licensor shall have paid the estimated Occupation Costs for the Initial Stub Period of the License Period in respect of each of the Leases, other than amounts which are Current Assets (as defined in the Soul Agreement), to the Licensee, which condition is for the exclusive benefit of the Licensor and may only be waived, in whole or in part, by the Licensor in its sole discretion.

10. Termination

The license to occupy and/or use any of the Premises under this Agreement may be terminated by the Licensor at any time without recourse by the Licensee in the event that the Licensee, in any material respect, defaults under, or fails to comply in any material respect with, this Agreement in respect of such Premises and such default or failure to comply remains unremedied for five (5) business days following notice of such default or failure by the Licensor to the Licensee. In the event of termination, the Licensee shall immediately vacate the applicable Premises. Such termination shall be without prejudice to and shall not affect: (a) any rights and remedies of the Licensor as against the Licensee arising from or relating to such default; and (b) any obligations of the Licensor relating to such default or in respect of the period prior to any such termination. For greater certainty, the Licensor and Licensee acknowledge and agree that the failure by the Licensee to pay Occupation Costs, or any part thereof, in accordance with Section 2 hereof shall be deemed to be a material default for the purposes of this Section 10.

11. No Assignment

This Agreement and the license provided for herein is personal to the Licensee and cannot be assigned.

12. No Registration

The Licensee agrees that this Agreement and any notice of it cannot be registered against title to the Premises.

13. Entire Agreement

No modification of this Agreement is binding unless it is in writing and signed by each of the Licensor and Licensee.

14. Notices

Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (a) delivered personally; (b) sent by prepaid courier service; or (c) sent prepaid by fax or other similar means of electronic communication, in each case to the applicable address set out below.

(a) To the Licensor:

- (i) Prizm LP  
101 Exchange Avenue  
Vaughan, Ontario L4K 5R6

Attention: Deborah Papernick  
Facsimile: (416) 977-4860  
Email: deborah.papernick@prizm.com

- (ii) with a copy to the Vendor's solicitors:

Stikeman Elliott LLP  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

Attention: Dee Rajpal  
Facsimile: (416) 947-0866  
Email: drajpal@stikeman.com

- (iii) with a copy to the Monitor:

FTI Consulting Canada, Inc.  
TD Waterhouse Tower  
79 Wellington Street West  
Suite 2010, P. O. Box 104  
Toronto, ON M5K 1G8

Attention: Nigel Meakin  
Facsimile: 416-649-8101

Email: nigel.meakin@fticonsulting.com

(b) To the Licensee:

(i) Soul Restaurants Canada Inc.

Attention: Aly Janmohamed  
Email: aly@soulfoodsgroup.com

(ii) with a copy to the Purchaser's solicitors:

Gardiner Roberts LLP  
Suite 3100 Scotia Plaza  
40 King Street West  
Toronto, ON M5H 3Y2

Attention: Arlene O'Neill  
Facsimile: (416) 865-6636  
Email: aoneill@gardiner-roberts.com

Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery, if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a business day and the communication is so delivered, faxed or sent prior to 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following business day. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

15. Counterparts

This Agreement may be executed and delivered by the Licensor and Licensee in one or more counterparts, each of which will be an original and each of which may be delivered by facsimile or functionally equivalent electronic means, and those counterparts will together constitute one and the same instrument.

16. Governing Law

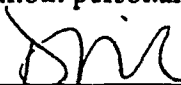
This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein which apply to contracts made and to be performed entirely in Ontario.

[signature pages follow]

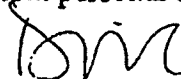


IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

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

By:   
Name: Deborah Papernick  
Title: CRO

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

By:   
Name: Deborah Papernick  
Title: CRO

SOUL RESTAURANTS CANADA INC.

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

PRISZM LP,  
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and without personal or corporate liability

By: \_\_\_\_\_  
Name:  
Title:

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

By: \_\_\_\_\_  
Name:  
Title:

SOUL RESTAURANTS CANADA INC.

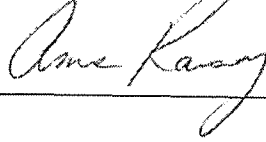
By: Ali Jannat  
Name: ALI JANNAT  
Title: PRESIDENT

# TAB E

This is Exhibit "E"  
to the affidavit of Deborah Papernick,  
sworn before me on the 24<sup>th</sup> day  
of May, 2011

Anne Forrester Ramsay, a  
Commissioner etc., Province of Ontario,  
while a student-at-law.  
Expires June 17, 2013.

Commissioner for Taking Affidavits



*Companies' Creditors Arrangement Act*  
RSC 1985, c C-36

**Restriction – employees, etc.**

6 (5) The court may sanction a compromise or an arrangement only if

(a) the compromise or arrangement provides for payment to the employees and former employees of the company, immediately after the court's sanction, of

(i) amounts at least equal to the amounts that they would have been qualified to receive under paragraph 136(1)(d) of the Bankruptcy and Insolvency Act if the company had become bankrupt on the day on which proceedings commenced under this Act, and

(ii) wages, salaries, commissions or compensation for services rendered after proceedings commence under this Act and before the court sanctions the compromise or arrangement, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the company's business during the same period; and

(b) the court is satisfied that the company can and will make the payments as required under paragraph (a).

**Restriction – pension plan**

6 (6) If the company participates in a prescribed pension plan for the benefit of its employees, the court may sanction a compromise or an arrangement in respect of the company only if

(a) the compromise or arrangement provides for payment of the following amounts that are unpaid to the fund established for the purpose of the pension plan:

(i) an amount equal to the sum of all amounts that were deducted from the employees' remuneration for payment to the fund,

(ii) if the prescribed pension plan is regulated by an Act of Parliament,

(A) an amount equal to the normal cost, within the meaning of subsection 2(1) of the Pension Benefits Standards Regulations, 1985, that was required to be paid by the employer to the fund, and

(B) an amount equal to the sum of all amounts that were required to be paid by the employer to the fund under a defined contribution provision, within the meaning of subsection 2(1) of the Pension Benefits Standards Act, 1985, and

(iii) in the case of any other prescribed pension plan,

(A) an amount equal to the amount that would be the normal cost, within the meaning of subsection 2(1) of the Pension Benefits Standards Regulations, 1985, that the employer would be required to pay to the fund if the prescribed plan were regulated by an Act of Parliament, and

(B) an amount equal to the sum of all amounts that would have been required to be paid by the employer to the fund under a defined contribution provision, within the meaning of subsection 2(1) of the Pension Benefits Standards Act, 1985, if the prescribed plan were regulated by an Act of Parliament; and

(b) the court is satisfied that the company can and will make the payments as required under paragraph (a).

#### **Restriction on disposition of business assets**

...

#### **Restriction – employers**

36 (7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(4)(a) and (5)(a) if the court had sanctioned the compromise or arrangement.

# TAB 3

Court File No. CV-11-915900CL

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.

Applicants

AFFIDAVIT OF DEBORAH PAPERICK  
(Sworn May 24, 2011 re Approval of Sales Process)

I, Deborah Papernick, of the City of Thornhill, Province of Ontario, MAKE  
OATH AND SAY:

1. I am the Chief Financial Officer of the Applicant Priszm Inc. ("Priszm GP") and the Court-appointed Chief Restructuring Officer of the Priszm Entities (as defined below) and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated.
2. This affidavit is sworn in support of a motion brought by Priszm Income Fund ("Priszm Fund"), Priszm Canadian Operating Trust, Priszm GP, and Kit Finance Inc. (collectively, the "Applicants") and Priszm LP (together with the Applicants, the "Priszm Entities") seeking an order approving the sale process (as described below) and the Genuity Engagement Letter (as defined below), *nunc pro tunc*, and certain ancillary relief, as described in greater detail herein and in the Notice of Motion.



## BACKGROUND

3. Prizm LP is a franchisee of Yum! Restaurants International (Canada) Company (the "Franchisor") and is Canada's largest independent quick service restaurant operator. Prizm LP is the largest operator of the KFC concept in Canada, accounting for approximately 60% of all KFC product sales in Canada.

4. The Prizm Entities were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pursuant to the Initial Order of the Ontario Superior Court of Justice dated March 31, 2011. FTI Consulting Canada Inc. was appointed as Monitor of the Prizm Entities (the "Monitor") in the CCAA proceedings. On April 29, 2011, the Honourable Madam Justice Mesbur issued the Amended and Restated Initial Order (the "Initial Order"). The Initial Order and all other filings in the CCAA proceedings are available on the Monitor's website at: <http://cfcanada.fticonsulting.com/prizm>.

5. Further details regarding the background to this CCAA proceeding are set out in the affidavit sworn by me on March 31, 2011 (the "Initial Order Affidavit") and, unless relevant to the present motion, are not repeated herein. Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Initial Order Affidavit.

### *The Prizm Entities' Financial Difficulties*

6. As described in greater detail in the Initial Order Affidavit, Priszm LP operates approximately 425 KFC, Taco Bell and Pizza Hut restaurants as franchisee. Priszm LP experienced significant same store sales declines for the Priszm Entities in 2009 and 2010. As a result of the same store sale declines, the Priszm Entities' financial performance in FY2009 and FY2010 was well below both prior years' performance and budgeted expectations.

7. As a result of slower than forecast sales during the third quarter of FY2010, on September 5, 2010, Priszm Fund breached a covenant under its senior secured indebtedness (the "Prudential Loan") with Prudential Investment Management, Inc., and each Prudential affiliate a party thereto (collectively, "Prudential") and remains in non-compliance today. As a result of the non-compliance, both tranches of the Prudential Loan became callable by Prudential. The Priszm Entities subsequently failed to make the interest payments due since December 2010.

8. Priszm Income Fund also failed to make an interest payment of \$0.975 million due on December 31, 2010 with respect to its subordinated debentures due June 30, 2012 and remains in default of its interest payment obligation.

9. The Priszm Entities also ceased paying certain obligations to the Franchisor as they became due. Among other things, Priszm LP has failed to pay the continuing fees payments pursuant to the Franchise Agreement since December 2010. Priszm LP has also defaulted in its obligation to complete upgrades to a number of restaurants as required under the Franchise Agreement.

10. In response to same store sales declines, the Prizm Entities undertook extensive measures in 2010 to increase their profitability. Among other things, in early 2010, the Prizm Entities engaged investment banker Canaccord Genuity Corp. (“Canaccord Genuity”) to assist in their efforts to restructure their long term loan facilities and investment obligations. Working in conjunction with the Franchisor, Canaccord Genuity contacted a total of 74 parties with respect to a potential refinancing. 24 parties conducted preliminary due diligence. Management made presentations to 7 of those 24 parties.

11. Some of the potential lenders expressed an interest in taking part in one or more refinancing alternatives. However, the challenging credit markets and a lack of agreement on certain business issues with the Franchisor prevented the Prizm Entities from successfully concluding their refinancing efforts.

12. In September 2010, the Prizm Entities commenced a sales process to explore the potential sale of some of their assets in order to allow the Prizm Entities to pay down a portion of their long-term debt (the “Initial sales process”). In my capacity as Chief Financial Officer of Prizm GP, I had some general knowledge of the strategic decisions being undertaken by the Prizm Entities prior to March 31, 2011 with respect to the Initial sales process, but I was not personally involved in directing same until 2279549 Ontario Inc. was appointed as Chief Financial Officer of the Prizm Entities pursuant to the Initial Order on March 31, 2011. Accordingly, and without limiting paragraph 1 hereof, the statements in this affidavit with respect to the Initial sale process which refer

to events prior to March 31, 2011 are based on my review of the records, press releases, and public filings of the Prizm Entities as necessary, and where I have relied upon such information I verily believe such information to be true.

13. As more fully described in my affidavit sworn May 24, 2011 in support of the Prizm Entities' request to approve the Soul Agreement (as defined below), as a result of the Initial sales process, Prizm LP and Prizm GP entered into an agreement of purchase and sale with Soul Restaurants Canada Inc. (formerly 7716443 Canada Inc.) (the "Purchaser"), an affiliate of Soul Foods Group, a U.K. based franchisee of YUM! Restaurants International, for the sale of 232 (subsequently reduced to 231 with no corresponding reduction in the purchase price) operating restaurants in Ontario, British Columbia and Quebec (the "Original APA"). On May 17, 2011, the parties to the Original entered into an Amended and Restated Asset Purchase Agreement (the "Soul Agreement"). Among other things, the parties agreed to reduce the number of stores to be acquired by the Purchaser to 204 stores.

14. On January 14, 2011, representatives of the Prizm Entities met with Prudential and the Franchisor. The representatives of the Prizm Entities presented both their short term funding issues as well as a long term plan for a residual business comprised of the remaining assets not included in the Original APA and the sale transaction contemplated thereby (the "Soul Transaction"). The proposed plan required the financial support of both Prudential and the Franchisor, as well as the deferral of upgrade requirements by the Franchisor. The Franchisor and Prudential did not accept

the proposal made by the Prizm Entities. The Prizm Entities were further advised that the Franchisor and Prudential would not provide any further forbearances or extensions unless the Prizm Entities proceeded towards a closing of the Soul Transaction by January 31, 2011 and expeditiously conducted a sales process for the remaining restaurants and assets of the Prizm Entities.

### THE SALE PROCESS AGREEMENT

15. If the Soul Agreement is approved by the Court and successfully closes, the Prizm Entities will have 223 restaurant outlets remaining in Ontario, British Columbia, Alberta, Manitoba, Quebec, New Brunswick, and Nova Scotia (the “Remaining Restaurants”).

16. In conjunction with the forbearance granted by Prudential to the Prizm Entities on February 1, 2011, Prizm LP, Prizm GP, Kit Finance Inc., and Prudential entered into an agreement dated February 1, 2011 (the “sales process Agreement”) pursuant to which the Prizm Entities agreed to conduct a sales process for the outlets not covered by the Original APA, and to use their best commercial efforts to comply with the sale process described in the sales process Agreement. A copy of the sales process Agreement is attached hereto as **Exhibit “A”**.

17. By e-mail correspondence dated March 9, 2011, the parties to the sales process Agreement agreed to amend some of the dates contemplated therein to allow additional time for the receipt of formal expressions of interest.

18. The sales process Agreement, as amended, set the following schedule for the sales process:

- a) retention of a sales agent pursuant to an engagement letter that is acceptable to Prudential by no later than February 9, 2011;
- b) receipt of formal expressions of interest by prospective purchasers with respect to no less than 90% of the locations subject to the sales process no later than March 22, 2011;
- c) receipt of formal final bids (including a draft asset purchase agreement and description of the proposed financing) with respect to no less than 90% of the locations subject to the sales process by no later than May 9, 2011; and
- d) filing by no later than May 20, 2011 of appropriate motions with respect to sales of no less than 90% of the locations subject to the sales process.

#### **STATUS OF THE SALES PROCESS**

19. As described in further detail below, on February 10, 2011, Prizm Fund retained Canaccord Genuity to act as financial advisor and sales agent in connection with the sales process.

20. Starting in February 2011, Canaccord Genuity contacted 91 prospective purchasers that had been identified by the Prizm Entities, the Franchisor, Canaccord

Genuity, and the Monitor. 67 of these parties requested and were delivered a "teaser" document as well as a Non-Disclosure Agreement (the "NDA").

21. 29 of the contacted parties executed the NDA and received copies of the Prizm Entities' Confidential Information Memorandum (the "CIM") and received access to an on-line data room. Interested parties were required to submit non-binding expressions of interest by March 22, 2011.

22. A number of expressions of interest were received by the Prizm Entities on or about March 22, 2011. These expressions of interest in the aggregate encompass all of the outlets which did not form part of the Original APA.

23. Since the Prizm Entities' CCAA filing on March 31, 2011, Canaccord Genuity has been in contact with 39 additional parties inquiring about the sales process. Following discussions with Canaccord Genuity, 23 parties requested and were sent a copy of the teaser and the NDA and 13 of these parties signed the NDA. Two parties submitted expressions of interest. A number of other parties that have not submitted expressions of interest continue their due diligence efforts.

24. A number of the interested parties requested additional time in order to complete their due diligence and submit their formal bid. Having considered the requests and given the number of additional parties that had only commenced diligence after the start of the CCAA proceedings, the Prizm Entities and Canaccord Genuity

were of the view that the deadline for the submission of formal offers should be extended by approximately two weeks.

25. Following discussions with Prudential and the Monitor, the Prizm Entities extended the deadline for submission of formal bids until May 25, 2011. Following receipt of formal bids, the Prizm Entities will, with the assistance of Canaccord Genuity and the Monitor and in consultation with Prudential, review the bids, negotiate binding agreements of purchase and sale and return to Court for approval of one or more transactions.

#### **APPROVAL OF THE GENUITY ENGAGEMENT LETTER**

26. As mentioned above, on February 10, 2011, Prizm Fund retained Canaccord Genuity to assist with the sales process pursuant to an engagement letter dated January 27, 2011 (the "Genuity Engagement Letter"). The Prizm Entities are seeking an order approving the Genuity Engagement Letter *nunc pro tunc*.

27. Canaccord Genuity is a well known and respected provider of investment banking services. Furthermore, Canaccord Genuity has previously provided financial advisory services to the Prizm Entities and has worked closely with senior management of the Prizm Entities for more than 12 months. Canaccord Genuity has greatly assisted the Prizm Entities in their refinancing efforts to date and has gained a thorough and intimate understanding of the business operated by the Prizm Entities. Since the sales process began, Canaccord Genuity has interacted with all of the



potentially interested parties and has developed an understanding of the market that would be lost if the Prizm Entities were deprived of the benefit of Canaccord Genuity's continued advice and assistance now and were required to retain a new financial advisor. The loss of that information and expertise would be detrimental to the sales process and would hinder or delay the process such that it would not be completed in the currently contemplated time frame. Thus, the Prizm Entities believe that the continued involvement of Genuity is essential to the completion of the sales process in a timely manner.

28. The Genuity Engagement Letter provides for a non-refundable engagement fee on execution (which has been paid) and transaction fees (the "Transaction Fee") payable on completion of any Transaction (as defined in the Genuity Engagement Letter) other than the Soul Transaction, with the amount of the Transaction Fee dependant on the gross proceeds generated from the transactions. The engagement fee is to be credited against any Transaction Fee. The Transaction Fee is payable to Canaccord Genuity only if a sale transaction is completed and the quantum of those fees is dependent on the amount of the gross proceeds of such transaction.

29. The fee structure contained in the Genuity Engagement Letter was the subject of significant negotiation between Canaccord Genuity, Prizm Fund and Prudential and was approved by the board of trustees of Prizm Fund and consented to by Prudential prior to the commencement of the CCAA proceedings.

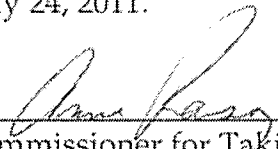
## CONCLUSION

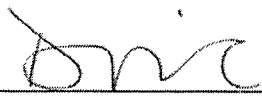
30. The sales process was designed to provide a fair and efficient process for maximizing the value of the Remaining Restaurants for the benefit of all of the Prizm Entities' stakeholders. In amending some of the deadlines in the sales process, the Prizm Entities, in consultation with the Monitor, Canaccord Genuity and Prudential, have taken into account the progress of the sales process to date and the goal of obtaining the highest and best bids for the Remaining Restaurants and a going concern sale that will preserve jobs for the employees of the Prizm Entities and business for the Prizm Entities' suppliers.

31. I understand that Prudential and the Monitor support the sales process and the retention of Canaccord Genuity.

32. This affidavit is sworn in support of the Prizm Entities' motion for an Order, *inter alia*, approving the sales process described herein, *nunc pro tunc*, approving the retainer of Canaccord Genuity pursuant to the Genuity Engagement Letter, *nunc pro tunc*, and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario, on May 24, 2011.

  
 \_\_\_\_\_  
 Commissioner for Taking Affidavits

  
 \_\_\_\_\_  
 Deborah Papernick

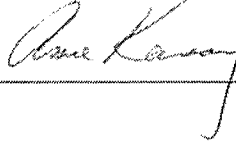
Anne Forrester Ramsay, a  
 Commissioner etc., Province of Ontario,  
 while a student-at-law.  
 Expires June 17, 2013.

# TAB A

This is Exhibit "A"  
to the affidavit of Deborah Papernick,  
sworn before me on the 24<sup>th</sup> day  
of May, 2011

Anne Forrester Ramsay, a  
Commissioner etc., Province of Ontario,  
while a student-at-law.

~~Expires June 17, 2013.~~  
Commissioner for Taking Affidavits



### **Agreement relating to Sale Process Plan**

This agreement (this "Agreement"), dated as of February 1, 2011, is among (i) **KIT FINANCE INC.** (the "Company"), an Alberta corporation, and **PRISZM INC.**, a Canadian corporation formerly known as KIT Inc. (together with its successors and assigns, "Priszm Inc.", and together with the Company, the "Obligors"), and (ii) each of the undersigned holders of the Notes (as constituted from time to time, the "Noteholders").

The Obligors are party to a Noteholder Forbearance Agreement dated as of February 1, 2011 (the "Forbearance Agreement") which provides, among other things, for the temporary forbearance by the Noteholders from the exercise of remedies in respect of certain Defaults and Events of Default (as such terms are used therein). All terms used herein and not defined herein shall have the meanings assigned to them pursuant to the Forbearance Agreement.


1. Attached hereto as **Schedule A** is an asset sale process outline describing certain marketing and sales requirements and obligations of the Obligors and containing associated time periods and completion deadlines (the "Sale Process Plan"). The Obligors hereby agree to use their best commercial efforts to comply with the Sale Process Plan and the obligations set forth therein on a timely basis.

2. Without limiting the generality of the foregoing, the Obligors specifically covenant and agree that (a) they will use their reasonable best efforts to provide appropriate information and access to, and assist with the due diligence process by, the prospective purchasers at all stages of the sale process, (b) they will permit the Noteholders and their representatives full and complete access to current information on the sale process, including terms and conditions of proposed bids, status of individual negotiations, identification of and information about prospective purchasers, financing of prospective sales, and alternative bids (whether or not pursued by the Company), (c) by no later than February 9, 2011, the Obligors will retain a sales agent pursuant to an engagement letter that is acceptable to the Noteholders and will by such date commence the sale process identified in the Sale Process Plan, (d) the Obligors will set a deadline for receipt of formal expressions of interest by prospective purchasers of no later than March 4, 2011, and that by such date the Obligors will have received formal expressions of interest with respect to no less than 90% of the locations that are the subject of the Sale Process Plan, (e) by no later than April 8, 2011, the Obligors will have received formal final bids (which bids shall include draft asset purchase agreements and a description of the proposed purchase financing) with respect to no less than 90% of the locations that are the subject of the Sale Process Plan, (f) by no later than April 22, 2011, the Obligors and the Noteholders shall have agreed on a Court-based process for ultimate sale approval and consummated such process by appropriate Court filings and notices, and (g) by no later than May 13, 2011, the Court overseeing such process shall have entered appropriate supportive motions with respect to sales of no less than 90% of the locations that are the subject of the Sale Process Plan.

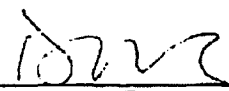
3. A failure of an Obligor to timely perform any of its respective obligations contained herein as and when provided herein shall constitute a Forbearance Termination Event under the Forbearance Agreement.

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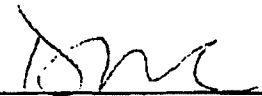
KIT FINANCE INC.

By:   
Name: Deborah Papernick  
Title: CFO

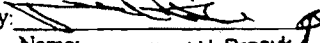
PRISZM INC.

By:   
Name: Deborah Papernick  
Title: CFO

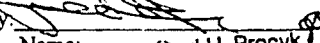
PRISZM LP, by its general partner, PRISZM INC.

By: 


**PRUDENTIAL INVESTMENT  
MANAGEMENT, INC.**

By:   
Name: Paul H. Procyk  
Title: Vice President

**THE PRUDENTIAL INSURANCE COMPANY  
OF AMERICA**


By:   
Name: Paul H. Procyk  
Title: Vice President

**PRUCO LIFE INSURANCE COMPANY**

By:   
Name: Paul H. Procyk  
Title: Vice President

**PRUDENTIAL RETIREMENT INSURANCE  
AND ANNUITY COMPANY**

By: Prudential Investment Management, Inc., its investment  
manager

By:   
Name: Paul H. Procyk  
Title: Vice President



## Schedule A

Sale Process Plan**(1) Initiation of Company-led sale process [week 1 = week of Jan 31 to Feb 4]**

- marketing and sale process with respect to the Obligors' assets (including Prudential's collateral as senior secured lender to the Obligors), with the process conducted by Genuity or another sales agent mutually acceptable to Prizm and Prudential, on terms mutually acceptable; FTI to have oversight role
- press release regarding engagement of Genuity and search for buyers
- incentives/process controls to be contained within engagement of sales agent
- sale process to be two-stage: (1) identify potential bidders, sign confidential agreement/standstills to extent haven't already, distribute confidential financial information (updated) to obtain expressions of interest; and (2) qualified bidders conduct diligence and submit formal bids with marked purchase agreements to forms provided to them
- complete list of initial potential buyers (which will include submissions by Yum!) by end of week 1
- Prudential will retain right to approve/reject all proposed sales in its sole discretion; Prudential does not have intention to be primary bidder on sales but retains the right to retain and dispose of its collateral in its sole discretion in accordance with contractual agreements and law
- goals of process to include: to identify best potential buyer for each group of stores, organized by regions or such other basis as is determined to optimize sale value
- Prudential will be at table during all phases of process, including:
  - Prudential/Richter will have access to bidder correspondence, drafts and indicative proposals
  - Prudential/Richter to receive current updates on status and substance of sale process
  - Prudential/Richter will receive current updates/information as requested
- Yum! retains approval rights for sales

**(2) Continued progress toward completion of sale of Ontario and B.C. stores [week 0 - week [6-12]]****(3) End of stage 1 of sale process [week 5 = week of Feb 28 to Mar 4]**

- deadline for expressions of interest; review expressions of interest

**(4) Complete stage 2 of sale process [weeks 6-10, week 6 = week of March 7 to March 11, week 10 = April 4 to April 8]**

- short-listed buyers conduct all required due diligence and submit formal final bids with marked purchase agreements to forms provided to them (purchase agreements to contain placeholder for court approval of sale)

**(5) Evaluation of bids [week 11 = week of April 11 to April 15]**

- Company and Prudential evaluate offers, including draft APAs, price, terms, financing, transition services, etc., to determine if acceptable terms/value is available in aggregate sales
- if sufficient value is realized and offers are acceptable to Prudential and Yum!, court approval may be sought without "stalking horse" process (assumption: the proposals, if acceptable, will form the final bidder(s), since a complete process will have been conducted with public press release, etc.)
- if sufficient value is not realized through sale process, consideration to be given to other processes, including stalking horse

**(6) Potential court process to effect sales [timeframe TBD, depending on status of buyer of Ontario and B.C. stores, all other potential bidders and continued level of Yum! cooperation]**

- directors/trustees retain right to resign immediately prior to any potential court process
- make determination of form of potential court process in light of situation/developments
- Prudential and Prizm take APAs with the chosen bidders, and record of sale process, to Court with support of financial advisor/prospective court officer re: terms
- if Court requires it or if Prudential chooses, engage in stalking horse process, during court process
- possibility to close sale of Ontario and B.C. stores transaction within a court process either because buyer

or Prizm board or Prudential require it

**(7) Closing of sales [weeks 12- 16, week 12= week of April 18 to April 22, week 16= week of May 16 to May 20]**

- if necessary, conclude stalking horse or other additional marketing process
- closing of various sales with Court approval, including sale of Ontario and B.C. stores if needed
- closing payments received, paid to Prudential and others under distribution motion in Court process

# TAB 4

Court File No. CV-11-915900-CL

**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.**

Applicants

**AFFIDAVIT OF DEBORAH PAPERINICK  
(Sworn May 24, 2011 re Further KERP Amendments)**

I, Deborah Papernick, of the City of Thornhill, Province of Ontario, MAKE  
OATH AND SAY:

1. I am the Chief Financial Officer of the Applicant Priszm Inc. ("Priszm GP") and the Court-appointed Chief Restructuring Officer ("CRO") of the Priszm Entities (as defined below) and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. This affidavit is sworn in support of a motion brought by Priszm Income Fund ("Priszm Fund"), Priszm Canadian Operating Trust, Priszm GP, and Kit Finance Inc. (collectively, the "Applicants") and Priszm LP (together with the Applicants, the "Priszm Entities") seeking an order authorizing the Priszm Entities to reallocate funds payable to certain of their employees under the KERPs (as defined below) and authorizing the Priszm Entities to reallocate any additional funds that may be forfeited by KERP participants by resigning from their positions with the Priszm Entities to other

KERP participants with the prior consent of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Priszm Entities (the "Monitor").

## **BACKGROUND**

3. Details regarding the background of this proceeding are set out in, among others, the affidavit sworn by me on March 31, 2011 (the "Initial Order Affidavit"), the affidavit sworn by me on April 21, 2011, and the affidavit sworn by me on May [20], 2011 in support of other relief sought by the Priszm Entities on this motion (the "Papernick Sale Approval Affidavit") and, unless relevant to the present motion, are not repeated herein. Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Papernick Sale Approval Affidavit.

## **REALLOCATION OF FUNDS PAYABLE UNDER THE KERPS**

4. Prior to the commencement of the CCAA proceedings and in order to ensure retention of key personnel while the Priszm Entities attempted to refinance, restructure and sell their business, the Priszm Entities offered 41 key personnel retention bonuses (the "KERPs").

5. The KERPs were the subject of extensive negotiations between the Board of Directors of Priszm GP, some of the KERP participants, and Prudential.

6. The amounts payable to the KERP participants who are members of senior management will be paid upon the earlier of (a) the closing of one or more transactions

pursuant to which all of the Prizm Entities' restaurants are sold, restructured and/or closed, and (b) August 31, 2011.

7. The amounts payable under the original KERPs to the KERP participants who are not members of senior management will be paid upon the earlier of (a) the date on which they are informed in writing that their employment is no longer required by Prizm, and (b) July 31, 2011 (and with respect to one employee who had previously negotiated an agreement with the Prizm Entities, April 30, 2011).

8. As security for their obligations under the KERPs, the Prizm Entities established trusts in favour of the KERP participants.

9. Under the terms of the KERPs, in order to receive the incentive bonuses, the KERP participants cannot have resigned, been terminated with cause or have failed to perform their duties and responsibilities diligently, faithfully or honestly. The existing terms of employment continue for the KERP participants during the CCAA proceedings.

10. On April 29, 2011, the Prizm Entities obtained an Order reallocating the funds which had been forfeited by three of the KERP participants who resigned since March 31, 2011 to certain of the remaining KERP participants and one other employee who was not a KERP participant (none of whom were members of senior management) as an additional incentive to continue their employment with the Prizm Entities. The

additional reallocated mounts under the remaining KERPs are payable on August 31, 2011. A copy of the Order dated April 29, 2011 is attached hereto as Exhibit "A".

11. Since April 29, 2011, two additional KERP participants have resigned from the Prizm Entities notwithstanding the existence of the KERPs. As a result, those participants have also forfeited their entitlement to their KERPs. In order to attempt to minimize the risk of further departures during this critical time, the Prizm Entities would like to reallocate the funds which have been forfeited by the KERP participants who have resigned to certain of the remaining KERP participants (none of whom are members of senior management) as an additional incentive to continue their employment with the Prizm Entities.

12. Management believes that the amount of the forfeited funds is significantly less than the cost which would result if these employees left and had to be replaced.

13. I understand that the Monitor is supportive of the proposed reallocation.

#### **DISCRETION TO REALLOCATE ANY FUTURE FORFEITED KERP FUNDS**

14. The Prizm Entities hope that the additional incentives offered by reallocation of the forfeited funds will encourage the remaining KERP participants to continue their employment with the Prizm Entities. However, further resignations by some of the remaining KERP participants before the conclusion of the CCAA proceedings are possible. In order to avoid returning to Court each time funds are forfeited as a result of a resignation of a KERP participant, the Prizm Entities are seeking authority to

reallocate any funds that may be forfeited by any future resignations of the KERP participants to the remaining KERP participants with the prior consent of the Monitor.

15. I understand that the Monitor supports the granting of the requested authority (to be subject to its consent) to the Priszm Entities.

**CONCLUSION**

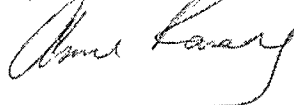
16. This affidavit is sworn in support of the Priszm Entities' motion for an Order authorizing the Priszm Entities to amend the KERPs as described above and authorizing the Priszm Entities to reallocate any additional funds that may be forfeited by KERP participants resigning from their positions with the Priszm Entities to other KERP participants with the prior consent of the CRO and the Monitor, and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, Province of Ontario, on May 24, 2011.

Anna Forrester Ramsay, a  
Commissioner s.c., Province of Ontario,  
while a student-at-law.

Expires June 17, 2013.

Commissioner for Taking Affidavits



Deborah Papernick

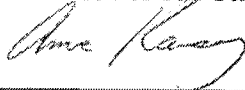


# TAB A

This is Exhibit "A"  
to the affidavit of Deborah Papernick,  
sworn before me on the 24<sup>th</sup> day  
of May, 2011

Anna Forrester Ramsay, a  
Commissioner etc., Province of Ontario,  
while a student-at-law.  
Expires June 17, 2013.

Commissioner for Taking Affidavits





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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE )

FRIDAY, THE 29<sup>TH</sup>

JUSTICE MESBUR )

DAY OF APRIL, 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")

ORDER

(Stay Extension, KERP Amendment, and Franchisor Charge)

THIS MOTION, made by Prizm Income Fund, Prizm Canadian Operating Trust, Prizm Inc., Prizm LP and Kit Finance Inc. (collectively, the "Prizm Entities") for an order, *inter alia*, (a) extending the Stay Period (as defined below) until June 30, 2011; and (b) authorizing the Prizm Entities to reallocate funds payable to certain of their employees under the Prizm Entities' Key Employee Retention Plans, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Deborah Papernick sworn April 21, 2011 (the "Papernick Affidavit") and the First Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Prizm Entities (the "Monitor"), and on hearing the submissions of counsel to the Prizm Entities, the Monitor, Prudential Investment Management, Inc., the Chief Restructuring Officer and Deborah Papernick,

✓ Scott's Real Estate Investment Trust, Olymel, Sysco Canada, and Metro-Richdieu Inc. ✓ Rem

and Yum! Restaurants International (Canada) LP, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

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**SERVICE**

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

**STAY EXTENSION**

2. THIS COURT ORDERS that that the Stay Period (as defined in paragraph 14 of the Initial Order of the Honourable Mr. Justice Morawetz dated March 31, 2011 (the "Initial Order")) is hereby extended until and including June 30, 2011.

**AMENDMENT TO KEY EMPLOYEE RETENTION PLANS**

3. THIS COURT ORDERS that the amendments to the Key Employee Retention Plans described in the Papernick Affidavit are hereby approved.

**AMENDED AND RESTATED INITIAL ORDER**

4. THIS COURT ORDERS that the Amended and Restated Initial Order in the form attached hereto as Schedule "A" is hereby approved.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 29 2011



PER/PAR:

NB

SCHEDULE "A"

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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

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| THE HONOURABLE | ) | FRIDAY, THE 29 <sup>TH</sup> |
|                | ) |                              |
| JUSTICE MESBUR | ) | DAY OF APRIL, 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")

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Priszm Income Fund, Priszm Canadian Operating Trust, Priszm Inc. and Kit Finance Inc. (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Deborah Papernick sworn March 30, 2011 and the Exhibits attached thereto (the "Papernick Affidavit"), and the pre-filing report of the proposed monitor, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and Priszm LP, the independent Trustees, Prudential Investment Management, Inc., FTI Consulting Canada Inc., the CRO (as hereinafter defined) and Deborah Papernick, and Yum! Restaurants International

(Canada) LP (the "Franchisor"), and on reading the consent of FTI Consulting Canada Inc. to act as the Monitor (the "Monitor"),

### SERVICE

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

### APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not an Applicant, Prizm LP (together with the Applicants, the "Prizm Entities") shall enjoy the benefits of the protections and authorizations provided by this Order.

### PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that one or more of the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

### POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Prizm Entities shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Prizm Entities shall continue to carry on business in a manner consistent with the preservation of their business (the "Business") and Property. The Prizm Entities shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, the "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as they deem

reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Prizm Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Papernick Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Prizm Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Prizm Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Prizm Entities shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and similar amounts owed to independent contractors, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Prizm Entities in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Prizm Entities shall be entitled but not required to pay all reasonable expenses incurred by the Prizm Entities in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Prizm Entities following the date of this Order.

8. **THIS COURT ORDERS** that the Prizm Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Prizm Entities in connection with the sale of goods and services by the Prizm Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in



respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Prizm Entities.

9. **THIS COURT ORDERS** that until a real property lease is assigned, disclaimed or resiliated in accordance with the CCAA, the Prizm Entities shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Prizm Entities and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Prizm Entities are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Prizm Entities to any of its creditors as of this date; (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

11. **THIS COURT ORDERS** that the Prizm Entities shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Amendment (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;

- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Prizm Entities to proceed with an orderly restructuring of the Business (the "Restructuring").

12. **THIS COURT ORDERS** that the Prizm Entities shall provide each of the relevant landlords with notice of the Prizm Entities' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Prizm Entities' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Prizm Entities, or by further Order of this Court upon application by the Prizm Entities on at least two (2) days notice to such landlord and any such secured creditors. If the Prizm Entities disclaim or resiliate the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Prizm Entities' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Prizm Entities and the Monitor 24 hours' prior written notice, and (b) at the effective time of

the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Prizm Entities in respect of such lease or leased premises and such landlord shall be entitled to notify the Prizm Entities of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE PRIZM ENTITIES OR THE PROPERTY**

14. **THIS COURT ORDERS** that until and including April 29, 2011, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Prizm Entities or the Monitor, or affecting the Business or the Property, except with the written consent of the Prizm Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Prizm Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Prizm Entities or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Prizm Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Prizm Entities to carry on any business which the Prizm Entities are not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c)

prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Prizm Entities, except with the written consent of the Prizm Entities and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Prizm Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation suppliers of chicken and other food and restaurant consumables, waste disposal service providers, all computer software, information technology services, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Prizm Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Prizm Entities, and that the Prizm Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Prizm Entities in accordance with normal payment practices of the Prizm Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Prizm Entities and the Monitor, or as may be ordered by this Court.

## NON-DEROGATION OF RIGHTS

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, but subject to sections 19 to 21 below, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Prizm Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## CRITICAL SUPPLIERS

19. THIS COURT ORDERS AND DECLARES that each of the entities listed in Schedule "A" hereto is a critical supplier to the Prizm Entities as contemplated by Section 11.4 of the CCAA (each, a "Critical Supplier").

20. THIS COURT ORDERS that each Critical Supplier shall continue to supply the Prizm Entities with goods and/or services on terms and conditions that are consistent with existing arrangements and past practices, as may be amended by the payment terms set forth in Schedule "A". No Critical Supplier may require the payment of a deposit or the posting of any security in connection with the supply of goods and/or services to the Prizm Entities after the date of this Order.

21. THIS COURT ORDERS that each Critical Supplier shall be entitled to the benefit of and is hereby granted a charge (together, the "Critical Supplier Charge") on the Property in an amount equal to the value of the goods and services supplied by such Critical Supplier and received by the Prizm Entities after the date of this Order less all amounts paid to such Critical Supplier in respect of such goods and services. The Critical Supplier Charge shall have the priority set out in paragraphs 46 and 48 hereof.

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future trustees, directors or officers of the Prizm Entities with respect to any claim against the trustees, directors or officers that arose before the date hereof and that relates to any obligations of the Prizm Entities whereby the trustees, directors or officers are alleged under any law to be liable in their capacity as trustees, directors or officers for the payment or performance of such obligations, or against any employee of the Prizm Entities that is a party to an action involving the Prizm Entities, until a compromise or arrangement in respect of the Prizm Entities, if one is filed, is sanctioned by this Court or is refused by the creditors of the Prizm Entities or this Court.

## DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Prizm Entities shall indemnify (a) their directors and officers against obligations and liabilities that they may incur as directors or officers of the Prizm Entities, and (b) the CRO and Deborah Papernick against any obligations and liabilities that they may incur as CRO of the Prizm Entities, after the commencement of the within proceedings, except to the extent that, with respect to any individual, the obligation or liability was incurred as a result of the individual's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Prizm Entities and the CRO and Deborah Papernick shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$9.8 million, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 46 and 48 herein.

25. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Prizm Entities' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

#### APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

26. THIS COURT ORDERS that 2279549 Ontario Inc. is hereby appointed Chief Restructuring Officer, an officer of this Court, and shall have the powers and obligations set out in the agreement entered into between the Prizm Entities and 2279549 Ontario Inc. (the "CRO") dated March 30, 2011 (the "CRO Agreement").

27. THIS COURT ORDERS that the CRO Agreement is approved and the Prizm Entities are authorized to perform all of their obligations pursuant to the CRO Agreement.

28. THIS COURT ORDERS that the CRO shall consult with the Monitor regarding all material issues relating to the Business and all issues relating to these proceedings and shall not authorize any payment greater than \$500,000 on behalf of the Prizm Entities without the prior concurrence of the Monitor to such payment.

29. THIS COURT ORDERS that, in addition to the rights and protections afforded the CRO as an officer of this Court, neither the CRO nor any employee of the CRO shall be deemed to be a director or trustee of any of the Prizm Entities.

30. THIS COURT ORDERS that neither the CRO nor any employee of the CRO shall incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful

misconduct on its or their part; provided that any liability of the CRO hereunder shall in no event exceed the quantum of the fees paid to the CRO.

31. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against or in respect of the CRO or any employee of the CRO, except with the written consent of the CRO or with leave of this Court on notice to the CRO, the Monitor, and the Prizm Entities.

#### **APPOINTMENT OF MONITOR**

32. **THIS COURT ORDERS** that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Prizm Entities with the powers and obligations set out in the CCAA or set forth herein and that the Prizm Entities and their unitholders, shareholders, officers, directors, trustees, and Assistants and the CRO shall advise the Monitor of all material steps taken by the Prizm Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

33. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Prizm Entities' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Prizm Entities, to the extent required by the Prizm Entities, in their dissemination, to the DIP Lender and its counsel of financial and other



information which may be used in these proceedings in accordance with the DIP Amendment (as hereinafter defined) or on reasonable request;

- (d) advise the Prizm Entities in their preparation of the Prizm Entities' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel in accordance with the DIP Amendment or on reasonable request;
- (e) advise the Prizm Entities in their development of the Plan and any amendments to the Plan;
- (f) assist the Prizm Entities, to the extent required by the Prizm Entities, with the holding and administering of creditors' or unitholders' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Prizm Entities, to the extent that is necessary to adequately assess the Prizm Entities' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) assist the CRO in the performance of its duties set out in the CRO Agreement;
- (j) advise and assist the Prizm Entities, as requested, in their negotiations with suppliers, customers, creditors and other stakeholders;

- (k) hold and administer funds in connection with arrangements made among the Prizm Entities, any counter-parties, and the Monitor, or by Order of this Court; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

34. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

35. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

36. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Prizm Entities and the DIP Lender with information provided by the Prizm Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Prizm Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Prizm Entities may agree.

37. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

38. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Prizm Entities shall be paid their reasonable fees and disbursements incurred both before and after the making of this Order, in each case at their standard rates and charges, by the Prizm Entities as part of the costs of these proceedings. The Prizm Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Prizm Entities on a weekly basis, or such other period as may be agreed with the Prizm Entities, and, in addition, the Prizm Entities are hereby authorized and directed to pay to the Monitor, counsel to the Monitor, and counsel to the Prizm Entities, retainers in the amounts of \$200,000, \$100,000, and \$200,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

39. **THIS COURT ORDERS** that, at the request of the Prizm Entities, the DIP Lender, any other party in interest, or this Court, the Monitor and its legal counsel shall pass their accounts, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

40. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Prizm Entities' counsel, and the CRO shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$1.5 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor, such counsel, and the CRO, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 46 and 48 hereof.

#### **THE FRANCHISOR CHARGE**

40A. **THIS COURT ORDERS** that the Franchisor shall be entitled to the benefit of and is hereby granted a charge (the "Franchisor Charge") on the Property as security for the continuing fees payable pursuant to the Franchise Agreement (as defined in the Papernick Affidavit) and accruing after the date hereof, which, for greater certainty, shall not include interest. The Franchisor Charge shall have the priority set out in paragraphs 46 and 48 hereof.

#### **DIP FINANCING**

41. **THIS COURT ORDERS** that the Prizm Entities are hereby authorized and empowered to obtain and borrow under a credit facility from Prudential Investment Management, Inc. and certain of its affiliates (the "DIP Lender") in order to finance the Prizm Entities' working capital requirements, provided that borrowings under such

credit facility shall not exceed \$3 million unless permitted by further Order of this Court.

42. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in Amendment No. 11 to the Note Purchase and Private Shelf Agreement dated as of March 30, 2011 (the "DIP Amendment"), filed and the Prizm Entities are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Amendment as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

43. **THIS COURT ORDERS** that, in addition to the existing security held by or on behalf of the DIP Lender securing the Prudential Loan, as amended by the Prudential Loan Amendments (as those terms are defined in the Papernick Affidavit (the "Prudential Security"), the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall only secure advances under the DIP Amendment and shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 46 and 48 hereof.

44. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge;
- (b) upon the occurrence of an event of default under the DIP Amendment or the Amended and Restated Noteholder Forbearance Agreement dated as of March 31, 2011 among Prizm LP, Prizm GP, Kit Finance, Prudential, and each Prudential affiliate a party thereto the DIP Lender, upon four (4) days

notice to the Prizm Entities and the Monitor, may apply to this Court for leave to exercise any and all of its rights and remedies against the Prizm Entities or the Property under or pursuant to the DIP Amendment, the Note Purchase and Private Shelf Agreement dated January 12, 2006, among Prizm GP, Kit Finance, Prudential Investment Management, Inc., and each Prudential affiliate a party thereto, as amended, the Prudential Security and the DIP Lender's Charge, including without limitation, to cease making advances to the Prizm Entities and set off and/or consolidate any amounts owing by the DIP Lender to the Prizm Entities against the obligations of the Prizm Entities to the DIP Lender under the DIP Amendment, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Prizm Entities and for the appointment of a trustee in bankruptcy of the Prizm Entities; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Prizm Entities or the Property.

45. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Prizm Entities under the CCAA, or any proposal filed by the Prizm Entities under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), with respect to any advances made under the DIP Amendment.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

46. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Critical Supplier Charge, the DIP Lender's Charge and the Directors' Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$1.5 million);

Second - Critical Supplier Charge;

Third - Franchisor Charge;

Fourth - DIP Lender's Charge; and

Fifth - Directors' Charge.

47. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the Critical Supplier Charge, the Franchisor Charge, the DIP Lender's Charge or the Directors' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

48. **THIS COURT ORDERS** that each of the Administration Charge, the Critical Supplier Charge, the Franchisor Charge, the DIP Lender's Charge and the Directors' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except for any Person who is a "secured creditor", as defined in the CCAA, as of the date of this Order and who has not received notice of this Application.

49. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Prizm Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the Critical Supplier Charge, the Franchisor Charge, the DIP

Lender's Charge or the Directors' Charge, unless the Prizm Entities also obtain the prior written consent of the Monitor, the Franchisor, the DIP Lender and the beneficiaries of the Administration Charge, or further Order of this Court.

50. **THIS COURT ORDERS** that the Administration Charge, the Critical Supplier Charge, the Franchisor Charge, the DIP Amendment and the DIP Lender's Charge, and the Directors' Charge, shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Prizm Entities, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Amendment shall create or be deemed to constitute a breach by the Prizm Entities of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Prizm Entities entering into the DIP Amendment or the creation of the Charges; and
- (c) the payments made by the Prizm Entities pursuant to this Order, the DIP Amendment, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive



conduct, or other challengeable or voidable transactions under any applicable law.

51. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Prizm Entities' interest in such real property leases.

#### **SERVICE AND NOTICE**

52. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in *The Globe and Mail*, National Edition, and *La Presse*, in French, a notice containing the information prescribed under the CCAA, and (b) within five days after the date of this Order (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Prizm Entities of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the names and addresses of individuals who are creditors publicly available.

53. **THIS COURT ORDERS** that the Prizm Entities and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Prizm Entities' creditors or other interested parties at their respective addresses as last shown on the records of the Prizm Entities and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

54. **THIS COURT ORDERS** that the Prizm Entities, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/prizm>.

#### **GENERAL**

55. **THIS COURT ORDERS** that the Prizm Entities, the Monitor or the CRO may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

56. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Prizm Entities, the Business or the Property.

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

58. **THIS COURT ORDERS** that each of the Prizm Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order

and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

60. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Time on the date of this Order.

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**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL  
ORDER**

**STIKEMAN ELLIOTT LLP**  
Barristers & Solicitors  
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199 Bay Street  
Toronto, Canada M5L 1B9

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Lawyers for the Applicants

**A) Suppliers of Food and Restaurant Consumables**

**Proposed Payment Terms**

- The later of 21<sup>1</sup> days from receipt of invoice or the Monday following the day which is 21 days from the receipt of invoice.
- To the extent that there are any annual fees, such fees to be prorated and paid them bi-monthly.

**Listing of suppliers of food and restaurant consumables to be declared Critical Suppliers and subject to the above payment terms**

|  |                                       |
|--|---------------------------------------|
| Pepsi-Cola Bev. Canada ( Nss )         | Canada Bread Company Ltd. (321228)    |
| Praxair Products Inc                   | Multi-Marques Inc.                    |
| Canada Bread Co.Ltd. #V4065            | Distagro (52285)                      |
| Baxter Foods Limited                   | Canada Bread Company, Limited (52383) |
| Canada Bread – Atlantic                | Linde Canada Ltd.                     |
| Distagro (34002)                       |                                       |
| Serca Foodservice Inc                  |                                       |
| Konings Wholesale                      |                                       |
| Sysco Food Services of Canada, Inc.    |                                       |
| Sysco Food Services of Vancouver, Inc. |                                       |

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<sup>1</sup> Where Monday is a holiday the payment date will be shifted to Tuesday.

**B) Chicken Suppliers**

**Proposed Payment Terms**

- The later of 7<sup>2</sup> days from receipt of invoice or the Monday following the day which is 7 days from the receipt of invoice.
- To the extent that there are any annual fees, such fees to be prorated and paid them bi-monthly.

**Listing of chicken suppliers to be declared Critical Suppliers and subject to the above payment terms**

Exceldor Cooperative Avicole

Dunn-Rite Food Product

Maple Lodge Farms Ltd.

Sunrise Poultry Processors Ltd

Olymel S.E.C./L.P.

Nadeau Poultry Farm Ltd

Mountain View Poultry Farms

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<sup>2</sup> Where Monday is a holiday the payment date will be shifted to Tuesday.

**C) Utility Service Providers**

**Proposed Payment Terms**

- Payment on the Thursday following the receipt of invoice.
- To the extent that there are any annual fees, such fees to be prorated and paid them bi-monthly.

**Listing of utility service providers to be declared Critical Suppliers and subject to the above payment terms**

|                                |                               |
|--------------------------------|-------------------------------|
| Eastlink                       | Energie Nb Power              |
| Town Of Arnprior               | Town Of Antigonish            |
| Haldimand H E C                | Edmundston La Ville           |
| Bell Canada (638)              | Nova Scotia Power Corporation |
| City of Belleville             | City Of Bathurst              |
| Hydro One Brampton             | Pictou, Town Of               |
| Brantford Power Inc            | Yarmouth, Town Of             |
| Barrie Public Utilities Comm.  | New Glasgow, Town Of (Water)  |
| Rogers AT&T (Don Mills)        | Windsor, Town Of              |
| Lakefront Utility Services Inc | Digby, Town Of                |
| Cornwall Electric              | Kings, Municipality County Of |
| Enbridge Consumers Gas Systems | Halifax Water Commission      |
| Cambridge & North Dumfries     | Bridgewater, Town Of          |
| City Of Cornwall               | Oromocto, Town Of             |
| Town Of Carleton Place         | Kamloops, City Of             |
| City Of St Catherines          | Delta, Corp Of                |
| Reg Munic Durham               | Corp. Of The New Westminster  |

|                                |                                       |
|--------------------------------|---------------------------------------|
| The Corp. Of The Town Of       | Penticton, City Of                    |
| E L K Energy Inc               | City Of Terrace                       |
| Hawkesbury Hydro               | Terasen Gas                           |
| Town Of Kingsville             | City Of Victoria                      |
| Essex Powerlines Corporation   | White Rock Utilities Ltd              |
| London Public Utilities        | Campbell River, District Of           |
| Enersource Hydro Mississauga   | Vernon, Corp Of The City Of           |
| Newmarket Hydro Elect. Comm.   | Kelowna, City Of - Utility            |
| Toronto Finance Department     | Town Of Amherst                       |
| Natural Resource Gas Ltd.      | City Of Portage La Prairie            |
| Niagara Falls Hydro            | Capital Regional District             |
| Oshawa Public Utilities Comm.  | Maple Ridge Corp City Of              |
| Ottawa Hydro                   | Cranbrook Corp Of The City Of         |
| Ottawa-Carleton                | Chilliwack, District Of               |
| Brant County Power             | Nanaimo, City Of                      |
| Ottawa River Power Corporation | Williams Lake, City Of                |
| Peterborough Utilities Comm.   | Sidney, Town Of                       |
| Veridian Connections           | Salmon Arm, District Of               |
| Pembroke Waterworks            | Squamish, District Of                 |
| Renfrew Hydro Electric Comm.   | Port Alberni, City Of                 |
| St Thomas Public Utilities     | City Of White Rock                    |
| Norfolk Power Distribution Inc | Regional District Of Central Okanagan |
| GSU                            | Coquitlam, City Of                    |
| Town Of Smiths Falls           | Sussex, Town Of                       |
| Sault Ste. Marie, P U C        | New Glasgow, Town Of                  |



## CRITICAL SUPPLIERS TO THE PRISZM ENTITIES

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|                             |                                |
|-----------------------------|--------------------------------|
| Thunder Bay Telephone       | Niagara Regional Police        |
| Thunder Bay Hydro           | Camrose, City Of               |
| Toronto Hydro               | BC Hydro                       |
| Union Gas Ltd               | City Of Surrey                 |
| Hydro One Networks Inc      | Township Of Langley            |
| Enwin Utilities             | Epcor                          |
| Whitby Hydro Electric Comm. | Burnaby, City Of               |
| Ville D'alma                | Shaw Cable                     |
| Bell Canada (2310)          | Reliance Home Comfort          |
| Ville De Coaticook          | Edmonton, The City Of          |
| Gaz Metropolitain           | City Of Miramichi              |
| Gazifere Inc                | Halton Hills Hydro Inc         |
| Hydro-Quebec                | Telus Quebec                   |
| Ville De Joliette           | Chatham-Kent Utility Services  |
| Ville De Magog              | Pacific Northern Gas Ltd.      |
| Telebec Ltee.               | City Of Winkler                |
| Ville De Sherbrooke         | Region Of Peel (53359)         |
| City Of Airdrie             | Superior Propane Inc.- Calgary |
| Town Of High River          | Culligan                       |
| Town Of Stettler            | Greater Napanee Utilities      |
| Town Of Strathmore          | Town Of Drayton Valley         |
| Town Of Brooks              | Bell Expressvu                 |
| Town Of Cochrane            | Telus Mobility                 |
| Bell Canada (7736)          | City Of Richmond, BC           |
| Bell Cellular               | The City Of Greater Sudbury    |

## CRITICAL SUPPLIERS TO THE PRISZM ENTITIES

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|                                |                               |
|--------------------------------|-------------------------------|
| Imperial Oil                   | M3 & W Inc.                   |
| Rogers Payment Centre          | MTS Communications Inc.       |
| Bell Canada (13065)            | Collus Power Corp             |
| Propane M & M Inc              | FortisBC Inc                  |
| Bell Mobilite Pagette          | Town Of Lakeshore             |
| Bell Canada (21360)            | Cablevision                   |
| Prince Edward Public Works     | Keep In Touch                 |
| Guelph Hydro                   | Powerstream                   |
| Erie Thames Power Corp         | Direct Energy                 |
| Telus Communications Inc       | Village Of New Minas          |
| Strathcona County              | Horizon Utilities Corporation |
| Westbank Irrigation District   | Bell Canada (46557)           |
| Black Mountain Irrigation Dist | Town Of Richmond Hill         |
| City Of Abbotsford             | Rogers Telecom - Business     |
| Clearbrook Waterworks District | Bluewave Energy               |
| Rogers Cablesystems            | Orangeville Hydro Limited     |
| Cape Breton Regional Municipal | Enmax                         |
| District Of Langford           | Enbridge Gas New Brunswick    |
| Bell Mobility Paging           | Allstream                     |
| Queens Municipality, Region Of | Bell Conferencing Inc.        |
| Brandon, City Of               | Wireless Personal             |
| Steinbech, Town Of             | Terago Networks Inc.          |
| Central Okanagan, Regional     | Voicemailtel Inc.             |
| City Of Selkirk                | Irving Energy Distribution    |
| Winnipeg, City Of (Water)      | Midland Power Utility         |

## CRITICAL SUPPLIERS TO THE PRISZM ENTITIES

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|                           |                               |
|---------------------------|-------------------------------|
| Manitoba Hydro/Centra Gas | On Telecom Management         |
| St. Albert, City Of       | Ari Financial Services Inc.   |
| Campbellton, City Of      | Cogeco Cable Inc.             |
| City Of Fredericton       | Internet Lightspeed           |
| Moncton, City Of          | Direct Energy                 |
| Saint John, City Of       | Consumers' Waterheater        |
| Aliant (34791)            | Societe De L'assurance        |
| Aliant (34786)            | Ville De Montreal             |
| St Stephen Utility Dept   | Halifax Regional Municipality |
| Riverview, Town Of        | Veridian Energy Inc.          |
| Port Hawkesbury, Town Of  | Region Of Peel (37018)        |
| Saint John Energy         |                               |

**D) Suppliers of Waste Disposal and Pest Control Services**

**Proposed Payment Terms**

- The later of 30 days from receipt of invoice or the Thursday following the day which is 30 days from the receipt of invoice.
- To the extent that there are any annual fees, such fees to be prorated and paid them bi-monthly.

**Listing of suppliers of waste disposal and pest control services to be declared Critical Suppliers and subject to the above payment terms**

|                              |                      |
|------------------------------|----------------------|
| Organic Resource Mgmt. Inc.  | Wasteco              |
| Owen Sound Septic Service    | BFI Canada-Penticton |
| Wasteless Environmental Serv | Abell                |
| Sanimax San Inc.             |                      |

**E) Providers of Appliance Repair and Information Technology Services**

**Proposed Payment Terms**

- The later of 30 days from receipt of invoice or the Thursday following the day which is 30 days from the receipt of invoice.
- To the extent that there are any annual fees, such fees to be prorated and paid them bi-monthly.

**Listing of providers of appliance repair and information technology services to be declared Critical Suppliers and subject to the above payment terms**

Radiant Systems

Global Payments

NCR Canada Ltd (34379)

DSL (Dairy Supplies Limited)

NCR Canada Ltd (49264)

Bazinet Taylor Ltee

Sitel

TFI Food Equipment Solutions

Menulink

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

Court File No: CV-11-915900CL

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.

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER  
(STAY EXTENSION)

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Lawyers for the Applicants

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

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**MOTION RECORD  
(RETURNABLE MAY 30, 2011)**

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