

*This Circular is important and requires your immediate attention. If you are in doubt as to how to respond to the Offer described in this Circular, please consult your investment dealer, broker or other professional advisor.*



## **SOMERSET ENTERTAINMENT INCOME FUND**

TRUSTEES' CIRCULAR RECOMMENDING

### **ACCEPTANCE**

OF THE OFFER BY

### **FLUID MUSIC CANADA, INC.**

TO PURCHASE ALL OF THE OUTSTANDING TRUST UNITS OF

## **SOMERSET ENTERTAINMENT INCOME FUND**

AND THE CLASS B LIMITED PARTNERSHIP UNITS OF  
SOMERSET ENTERTAINMENT LIMITED PARTNERSHIP

**FOR, at the election of each holder:**

- (a) \$2.12 in cash per Trust Unit or Class B LP Unit (the "Cash Alternative"); or
- (b) 0.003 of a \$1,000 principal amount 8.0% convertible unsecured subordinated debenture of the Offeror due 3 years following the date that such debentures are first issued per Trust Unit or Class B LP Unit (the "Convertible Debenture Alternative"); or
- (c) 1.1 common shares of the Offeror per Trust Unit or Class B LP Unit (the "Share Alternative").

**THE BOARD OF TRUSTEES HAS DETERMINED THAT THE CASH ALTERNATIVE IS FAIR TO UNITHOLDERS AND IS IN THE BEST INTERESTS OF THE FUND AND THE UNITHOLDERS AND UNANIMOUSLY RECOMMENDS THAT UNITHOLDERS ACCEPT THE CASH ALTERNATIVE AND TENDER THEIR UNITS TO THE CASH ALTERNATIVE. THE BOARD OF TRUSTEES HAS NOT CONSIDERED THE SHARE ALTERNATIVE OR THE CONVERTIBLE DEBENTURE ALTERNATIVE AND THEREFORE MAKES NO RECOMMENDATION WITH RESPECT TO THE SHARE ALTERNATIVE OR THE CONVERTIBLE DEBENTURE ALTERNATIVE**

October 20, 2009

## GENERAL INFORMATION

### Interpretation

Certain capitalized terms used in this Circular that are not otherwise defined have the respective meanings ascribed to them in the “Glossary” set forth in Exhibit “A” attached to this Circular.

Capitalized terms used in this Circular and not otherwise defined in the “Glossary” have the meanings ascribed to them in the Support Agreement.

Information in this Circular is given as at October 19, 2009 unless otherwise indicated.

### Currency

All dollar amounts in this Circular are in Canadian dollars unless otherwise indicated.

### Notice Regarding Information

Certain information in this Circular has been taken from or is based on documents that are expressly referred to in this Circular. All summaries of, and references to, documents that are specified in this Circular as having been filed, or that are contained in documents specified as having been filed, on the system for electronic document analysis and retrieval (“**SEDAR**”) are qualified in their entirety by reference to the complete text of these documents as filed, or as contained in documents filed, on SEDAR at [www.sedar.com](http://www.sedar.com). Unitholders are urged to read carefully the full text of these documents, which may also be obtained on request without charge from the Fund, 20 York Mills Road, Suite 600, Toronto, Ontario M2P 2C2.

The Fund is a reporting issuer or equivalent in all of the provinces and territories of Canada and files its continuous disclosure documents with the Canadian provincial and territorial securities authorities. Continuous disclosure documents are available without charge on SEDAR at [www.sedar.com](http://www.sedar.com).

Information contained in this Circular concerning the Offeror is based solely upon, and the Board of Trustees has relied, without independent verification, exclusively upon publicly available information.

### Forward Looking Statements

This Circular contains forward looking statements relating to the business and financial outlook of the Fund, which are based on the current expectations, estimates, forecasts and projections of the Fund. In some cases, forward looking statements can be identified by terminology such as “may”, “will”, “should”, “expects”, “plans”, “anticipates”, “believes”, “estimates”, “predicts”, “potential” or “continue” or the negative of these terms or other comparable terminology. These forward looking statements are not guarantees of future performance and involve risks, uncertainties, estimates and assumptions that are difficult to predict. Therefore, actual outcomes and results may differ materially from those expressed in these forward looking statements. In particular, this Circular contains forward-looking information pertaining to the completion of the proposed take-over bid and the general business strategies and plans of the Fund.

A number of factors could cause actual results to differ materially from the results discussed in the forward-looking information, including, but not limited to, failure to satisfy the conditions to the Offer or other factors discussed under the heading “Risk Factors” in the Fund’s Annual Information Form dated March 11, 2009. Although the forward-looking information contained in this Circular is based upon what management and the Trustees of the Fund believe are reasonable assumptions, the Fund cannot assure investors that actual results will be consistent with this forward-looking information. If the assumptions underlying forward-looking information prove incorrect or if some of the risks or uncertainties materialize, actual results may vary materially from those described in this Circular as intended, planned, anticipated, believed, estimated or expected.

Unitholders should not place undue reliance on any of these forward looking statements. Further, any forward looking statement speaks only as of the date on which it is made, and, except as required by applicable laws, the Fund undertakes no obligation to update any such statement to reflect new information, the occurrence of future events or circumstances or otherwise.

### **No Personal Liability**

The statements made in this Trustees' Circular are, to the extent they are the responsibility of the Board of Trustees, the responsibility of the Board of Trustees in their capacity as Trustees and not in their personal capacity, and, except as expressly otherwise required by law, in no event shall such Trustees be personally liable for any statements contained herein nor shall resort be had to, or redress, recourse or satisfaction from, the private and/or personal property of the Trustees or Unitholders.

### **Notice to Unitholders not Resident in Canada**

**This Circular has been prepared by the Fund in accordance with disclosure requirements under applicable Canadian law. Non-resident Unitholders should be aware that these requirements may be different from those of the United States or other jurisdictions. The enforcement by investors of civil liabilities under securities laws of jurisdictions outside Canada may be adversely affected by the fact that the Fund is an income trust formed pursuant to a declaration of trust governed by the laws of the Province of Ontario, Canada, that a majority of the officers and Trustees of the Fund are residents of Canada, that some or all of the experts named in this Circular are residents of Canada, and that a majority of the assets of the Fund are located in Canada. It may be difficult to compel the Fund, through its Trustees, to subject itself or themselves to a judgment issued by a court outside Canada.**

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## SOMERSET ENTERTAINMENT INCOME FUND

### TRUSTEES' CIRCULAR

This Circular is issued by the Board of Trustees in connection with the Offer made by Fluid Music Canada, Inc. (the “**Offeror**”) on the date hereof to Unitholders to purchase all of the Trust Units of Somerset Entertainment Income Fund (the “**Fund**”) and all of the Class B LP Units of Somerset Entertainment Limited Partnership (the “**Partnership**”) on the basis of, at the election of each Unitholder: (a) \$2.12 in cash per Unit; (b) 0.003 of a \$1,000 principal amount 8.0% convertible unsecured subordinated debenture of the Offeror due 3 years following the date that such debentures are first issued per Unit; or (c) 1.1 common shares of the Offeror per Unit, upon the terms and subject to the conditions set forth in the Offer Circular of the Offeror accompanying this Circular.

The Offer will be open for acceptance until 6:00 p.m. (Toronto time) on November 25, 2009, unless extended or withdrawn. The terms of the Offer, the method of acceptance and other information relating to the Offer and the Offeror are set out in the Offer Circular.

### TRUSTEES' RECOMMENDATION

The Board of Trustees has carefully considered the Offer and has determined that the Cash Alternative is fair to Unitholders and is in the best interests of the Fund and the Unitholders and unanimously recommends that Unitholders (other than the Fluid Related Parties) **ACCEPT** the Cash Alternative and **TENDER** their Units to the Cash Alternative. The Board of Trustees has not considered the Share Alternative or the Convertible Debenture Alternative and therefore makes no recommendation with respect to the Share Alternative or the Convertible Debenture Alternative.

### REASONS FOR RECOMMENDATION

The Board of Trustees has reviewed and considered the Offer with the benefit of advice from the Special Committee and financial and legal advisors. The following is a summary of the principal reasons for the Board's recommendation that Unitholders (other than the Fluid Related Parties) **ACCEPT** the Cash Alternative and **TENDER** their Units to the Cash Alternative:

- *Form of Consideration.* The Cash Alternative permits Unitholders to accept all cash, which provides liquidity and certainty of value.
- *Premium for Unitholders.* The consideration offered for the Units pursuant to the Cash Alternative represents a premium of approximately 23.5% over the 20-day average closing price of the Units ending on October 9, 2009, the last trading day prior to the announcement of the Offer.
- *Credibility of Offeror.* The Offeror is a public company operating in the music industry with a management team that has shown an ability to create value for shareholders in the past.
- *Fairness Opinion.* TD Securities Inc., financial advisor to the Fund, delivered the Fairness Opinion dated October 12, 2009, to the effect that, subject to the assumptions, qualifications and limitations discussed therein and as of the date thereof, the consideration offered under the Cash Alternative is fair from a financial point of view to Unitholders (other than the Fluid Related Parties). TD Securities has not been asked to address and the Fairness Opinion does not address and should not be relied upon as addressing the Convertible Debenture Alternative or the Share Alternative made available under the Offer. The Board of Trustees recommends that you carefully read the opinion in its entirety for a description of the matters considered and limitations on the review undertaken. See “Fairness Opinion”.
- *Likelihood of Completion.* There is a high probability that the transactions contemplated by the Support Agreement will be completed, based, among other things, on the conditions to the Offer and the terms and conditions of the Lock-Up Agreements. Lock-Up Agreements have been signed with holders of approximately 66% of the outstanding Units, just short of the 66<sup>2/3</sup>% Minimum Tender Condition. In addition, Somerset has been provided with evidence that Fluid is likely to have the cash required to complete the Cash Alternative.

- *Lock-up Agreements.* As a condition of the Offeror entering into the Support Agreement, each of Andy Burgess, a trustee and Chief Executive Officer of Somerset, and Gordon Gibson, a trustee and Chief Creative Officer of Somerset, entered into Lock-Up Agreements with the Offeror, pursuant to which Messrs. Burgess and Gibson have agreed to accept the Cash Alternative and deposit their securities in accordance with the terms of the Offer, subject to certain limited conditions, and not to withdraw such securities except in certain circumstances. See “Agreements with the Offeror – Lock-Up Agreements”. The Offeror has also entered into Lock-Up Agreements with other Unitholders of the Fund, who in the aggregate, including the holdings of Messrs. Burgess and Gibson, hold approximately 66% of the outstanding Units on a fully-diluted basis. The Locked-Up Unitholders may terminate the Lock-Up Agreements if they receive an alternative offer for their Units greater than \$3.25 per Unit.
- *Market Check* Somerset has conducted a thorough review of the market and alternative transactions. The Board has determined that there does not appear to be a better alternative available to the Unitholders at this time or in the foreseeable future.
- *No Non-Solicit or Break Fee.* The terms and conditions of the Support Agreement do not prohibit the Fund from actively seeking, soliciting, considering or acting on an Acquisition Proposal at any time, nor do they preclude a third party from proposing or making an unsolicited Acquisition Proposal, provided the Fund complies with the terms of the Support Agreement. Further, the terms and conditions of Support Agreement do not require the Fund to pay the Offeror a break fee if the Board changes its recommendation or accepts an Acquisition Proposal. See “Agreements with the Offeror — Support Agreement”.
- *Second-Stage Transaction.* After the Offeror has paid for the Units tendered to the Offer, the Support Agreement requires that the Offeror use its best commercial efforts to acquire the balance of the Units not tendered to the Offer by way of a Subsequent Acquisition Transaction or Compulsory Acquisition at a consideration per Unit of not less than the consideration per Unit paid pursuant to the Offer. In addition, the Offeror has agreed to take steps to complete the acquisition of the Units not tendered to the Offer as soon as practicable following the take up of the Units under the Offer, and in any event within 60 days of after the Offeror takes up and pays for Units under the Offer.
- *Tax Proposals Negatively Affecting Income Trusts.* The Minister of Finance (Canada) announced on October 31, 2006 that the Canadian federal government intended to change the taxation structure that applies to income trusts. These proposals have created significant uncertainty in the Canadian income trust market and significantly reduced the attractiveness of income trusts for investors. The proposed changes, as contained in draft legislation dated December 21, 2006, would reduce the tax benefits of the trust structure for many investors, commencing in 2011.

The foregoing summary of the information and factors considered by the Board of Trustees is not intended to be exhaustive of the factors considered by the Board of Trustees in reaching its conclusion and making its recommendation, but includes the material information, factors and analysis considered by the Board in reaching its conclusion and recommendation. The Board of Trustees evaluated the various factors summarized above in light of their knowledge of the business and the industry, financial condition and prospects of the Fund, and based upon the advice of the Trustees’ financial advisors and legal advisors. In view of the numerous factors considered in connection with their evaluation of the Offer, the Board of Trustees did not find it practicable to, and did not, quantify or otherwise attempt to assign relative weight to specific factors in reaching its decision. In addition, individual members of the Board may have given different weight to different factors. The conclusion and unanimous recommendation of the Board of Trustees were made after considering all of the information and factors involved.

### **SOMERSET ENTERTAINMENT INCOME FUND**

The Fund is an unincorporated, open-ended, limited purpose trust established under the laws of the Province of Ontario on February 8, 2005 by a declaration of trust, which was amended and restated on March 18, 2005. The Fund completed its initial public offering of Units on March 18, 2005. Somerset, a wholly-owned subsidiary of the Partnership, is the leading North American producer and distributor of specialty music sold through non-traditional retailers using interactive displays.

As of October 9, 2009, there were 14,493,300 Trust Units and 3,318,231 Class B LP Units issued and outstanding (17,811,531 Units on a fully-diluted basis).

The Fund, whose registered and head office is located at 20 York Mills Road, Suite 600, Toronto, Ontario M2P 2C2, is a reporting issuer or the equivalent in all provinces and territories of Canada (where such concept exists) and files its continuous disclosure documents with the Canadian securities regulatory authorities. Such documents are available at [www.sedar.com](http://www.sedar.com).

The Trustees as of the date hereof are Andy Burgess, Gordon Gibson, William Ardell, W. Judson Martin, Keith Harrison and Timothy Casgrain.

## **THE OFFEROR**

The Offeror is a private label music aggregation and distribution company. The Offeror provides music solutions to both business and individual consumers. The Offeror has compiled a music library of over five million songs, free of DRM restrictions, from a diverse network of producers including major label, independent and emerging artists. Management of the Offeror believes this to be the world's second largest non-DRM library, second only to Apple's iTunes library. The Offeror principally generates revenue from its music library through the Trusonic background music and messaging business. The Offeror has derived revenues predominantly from subscription sales of digital music programming and broadcasting services, digital music sales and historically, artist services and advertising. Its registered office is located at 5300 Commerce Court West, 199 Bay St., Toronto, Canada, M5L 1B9.

## **BACKGROUND TO THE OFFER**

The provisions of the Support Agreement are a result of arm's length negotiations conducted between representatives of the Fund and the Offeror and their respective advisors. The following is a summary of the meetings, negotiations, discussions and actions between the parties that preceded the execution and public announcement of the Support Agreement.

In July 2008, the Offeror approached the Fund with a proposal to acquire all of the outstanding Units (the "**Initial Offer**") and, on July 14, 2008, the Fund and the Offeror entered into a confidentiality and standstill agreement. On September 25, 2008, the Fund and the Offeror announced that the Initial Offer would not proceed.

Following the decision not to proceed with the Initial Offer, the Fund began a process to explore various strategic alternatives. The Fund retained TD Securities in October 2008 to assist in this process. TD Securities canvassed the market for potential purchasers of Somerset, contacting over 60 strategic and financial parties. Confidentiality agreements were ultimately executed with 14 parties who were then provided with a confidential information memorandum. Notwithstanding running a comprehensive process through which a large number of strategic players and financial sponsors were approached, Somerset did not receive any formal binding acquisition offers for the Fund.

Since the completion of the strategic review process at the end of 2008, Somerset has received unsolicited indications of interest from a few strategic and financial parties, but no formal offers were forthcoming.

In August, 2009, representatives of the Offeror contacted representatives of the Fund to discuss a possible acquisition of the Fund. As the Offeror was unwilling to enter into a confidentiality agreement containing a standstill provision, these discussions did not progress.

On September 23, 2009, a representative of the Offeror approached a representative of the Fund indicating that the Offeror would be interested in making an offer to acquire the Fund. On September 29, 2009, representatives of the Offeror and the Fund (including two members of the Special Committee) met to discuss the terms of the Offeror's proposed offer. The Offeror indicated that it was willing to proceed with its offer regardless of whether or not the Fund chose to support it or not, but that it would prefer a co-operative, supported transaction. The Offeror demonstrated that Unitholders owning approximately 46% of the outstanding Units had expressed their willingness to support such a transaction. The Offeror also indicated that the terms of such Unitholder support would only allow

such Unitholders to accept an alternative offer in excess of \$3.25 per Unit. Later on September 29, 2009, the Board met to discuss the terms of the proposed offer and other strategic alternatives. The Board determined that the proposed offer was worth further consideration and instructed management and the Fund's legal advisors to continue to negotiate with the Offeror on certain key terms of the proposal, particularly the amount of cash available to Unitholders under the cash alternative portion of the offer.

On October 1, 2009, the Board appointed a special committee (the "**Special Committee**") comprised solely of independent Trustees (William Ardell, Tim Casgrain and Judson Martin) to consider the Offer and to make recommendations with respect to the Offer or any other similar transaction. The Special Committee retained Bennett Jones LLP as its independent legal advisor to aid in its duties.

On October 7, 2009, the Board engaged TD Securities as its financial advisor in connection with the Offer.

During the period from September 29, 2009 to October 12, 2009, the Board formally met six times and the Special Committee formally met four times to consider various issues which arose in the ongoing negotiations between the Fund and the Offeror. During this period, Somerset also contacted a number of parties who had expressed an interest in purchasing the Fund during the previous few months to gauge if they had any continuing serious interest in a possible transaction. The Board also considered making a special distribution to Unitholders and other defensive tactics. Negotiations continued during this time between the Fund and the Offeror, resulting in the Offeror increasing the price per Unit it was willing to offer in cash and obtaining commitments for financing to allow all Unitholders to tender to the Cash Alternative without proration (other than those Locked-Up Unitholders who have elected to tender to the Convertible Debenture Alternative).

On October 12, 2009, the Offeror provided the Fund with signed Lock-Up Agreements and commitments for its required financing prior to executing the Support Agreement. On that same day, the Board met with its advisors to give detailed consideration to the terms of the transaction contemplated by the Support Agreement. At this meeting, TD Securities orally delivered the Fairness Opinion to the Board. After due consideration of the factors set out under "Reasons for Recommendation", including the Fairness Opinion, and following consultation with its financial and legal advisors, the Board unanimously determined that the Cash Alternative is fair, from a financial point of view, to all Unitholders (other than the Fluid Related Parties) and that the transactions contemplated in the Offer are in the best interests of the Fund and the Unitholders. The Board did not consider the Share Alternative or the Convertible Debenture Alternative and therefore makes no recommendation with respect to the Share Alternative and the Convertible Debenture Alternative given its inability to conduct due diligence on the Offeror and determine the value of the securities offered in these alternatives. Accordingly, the Board unanimously: (i) passed resolutions authorizing the execution and delivery of the Support Agreement, and (ii) determined to recommend that all Unitholders (other than the Fluid Related Parties) accept the Cash Alternative. The Fund and the Offeror then entered into the Support Agreement and the Offer was announced prior to the opening of trading on the TSX on October 13, 2009.

#### **FAIRNESS OPINION**

Pursuant to an engagement letter dated as of October 7, 2009, the Fund engaged TD Securities to prepare and deliver to the Board and the Special Committee an opinion as to the fairness of the consideration to be received under the Cash Alternative pursuant to the Offer, from a financial point of view, to Unitholders (other than the Fluid Related Parties) (the "Fairness Opinion"). TD Securities has not been asked to address and the Fairness Opinion does not address and should not be relied upon as addressing the Convertible Debenture Alternative or the Share Alternative made available under the Offer. The Board and the Special Committee considered the qualifications of TD Securities prior to retaining it as financial advisor and selected TD Securities based on its reputation and substantial experience in similar transactions.

TD Securities delivered a written opinion dated October 12, 2009 to the Board and the Special Committee, to the effect that, as of that date and based upon the scope of review and subject to the assumptions and limitations set forth therein, the consideration to be received under the Cash Alternative pursuant to the Offer is fair, from a financial point of view, to Unitholders (other than the Fluid Related Parties).

The full text of the Fairness Opinion which sets forth, among other things, assumptions made, information reviewed, matters considered and the scope of the review undertaken by TD Securities in rendering its opinion, is

attached as Exhibit “B” to this Circular. Unitholders are urged to carefully read the Fairness Opinion in its entirety. The Fairness Opinion was provided to the Board and the Special Committee in connection with their evaluation of the fairness of the consideration offered under the Cash Alternative and does not address any other term, aspect or implication of the Offer and is not intended to be, and does not constitute, a recommendation to Unitholders as to whether they should tender or not tender their Units to the Offer. The Fairness Opinion does not address the relative merits of the Offer as compared to other transactions or business strategies that might be available to the Fund, nor does it address the underlying business decision to implement the Offer. The summary of the Fairness Opinion described in this Circular is qualified in its entirety by reference to the full text of the Fairness Opinion.

The terms of the engagement letter between the Fund and TD Securities provide that TD Securities will receive a fee for its services, a portion of which is payable on delivery of the Fairness Opinion and a portion of which is payable on closing of the Offer, and is to be reimbursed for its reasonable out-of-pocket expenses. Furthermore, the Fund has agreed to indemnify TD Securities against certain liabilities.

## **AGREEMENTS WITH THE OFFEROR**

### **Support Agreement**

On October 12, 2009, the Offeror and the Fund entered into the Support Agreement, which sets out, among other things, the terms and conditions upon which the Fund agrees to recommend that Unitholders accept the Cash Alternative. The following is a summary of certain provisions of the Support Agreement. It does not purport to be complete and is subject to, and is qualified in its entirety by reference to, all the provisions of the Support Agreement. The Support Agreement has been filed by the Offeror with the applicable Canadian securities regulatory authorities and is available at [www.sedar.com](http://www.sedar.com).

### ***The Offer***

The Offeror agreed to make the Offer on the terms and conditions set forth in the Support Agreement. The Offer set forth in the Offer Circular accompanying this Circular satisfies the requirements of the Support Agreement.

### ***Conditions to the Offer***

Notwithstanding any other provision of the Offer but subject to the provisions of the Support Agreement, the Offeror has the right to withdraw or terminate the Offer (or extend the Offer to postpone taking up and paying for any Units deposited under the Offer) and will not be required to take up or pay for any Units deposited under the Offer, unless all of the following conditions are satisfied or waived by the Offeror at or prior to the Expiry Time:

- (a) there shall have been validly deposited under the Offer and not withdrawn that number of Units which constitute at least 66 2/3% of the Units (on a fully-diluted basis) outstanding at the Expiry Time (the “**Minimum Tender Condition**”);
- (b) there shall not be in effect at the Expiry Time, any temporary restraining order, preliminary or permanent injunction, statute, rule, regulation, order or decree or other prohibition enacted, entered, promulgated, issued or enforced by any Governmental Authority which prohibits, restricts or makes illegal making or maintaining the Offer and/or the taking-up and paying for Units deposited under the Offer or completion of any Compulsory Acquisition or Subsequent Acquisition Transaction;
- (c) there shall not be pending any suit, action or proceeding before or by any Governmental Authority:
  - (i) (A) seeking to prohibit or restrict the acquisition by the Offeror of any Units, (B) seeking to restrain or prohibit the take-up and payment for Units or the completion of any Compulsory Acquisition or Subsequent Acquisition Transaction, or (C) that would reasonably be expected to have a Material Adverse Effect;

- (ii) seeking to prohibit or limit the ownership, control or operation by the Offeror of any material portion of the business or assets of the Fund and the Fund Subsidiaries, taken as a whole, or to compel the Fund or any of the Fund Subsidiaries to dispose of or hold separate any material portion of the business or assets of the Fund and the Fund Subsidiaries, taken as a whole;
  - (iii) seeking to impose material limitations on the ability of the Offeror to acquire or hold, or exercise full rights of ownership of, any Units, including the right to vote the Units to be acquired by the Offeror on all matters properly presented to Unitholders including with respect to any Compulsory Acquisition Transaction or Subsequent Acquisition Transaction;
- (d) there shall not have occurred after the date of the Offer (or, if there does exist or shall have previously occurred, there shall not have been disclosed after the date of the Offer, generally by way of press release and material change report or to the Offeror in writing) any Material Adverse Effect and the Offeror shall have received a certificate of the Fund in form and substance satisfactory to the Offeror, acting reasonably, signed on behalf of the Fund by a senior officer of the Fund (without personal liability) addressed to the Offeror and dated as of the Expiry Time confirming the same;
- (e) the Offeror shall not have become aware of any untrue statement of a material fact, or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made and at the date it was made (after giving effect to all subsequent filings in relation to all matters covered in earlier filings), in any Fund Public Document filed by or on behalf of the Fund with any securities commission or similar securities regulatory authority in any of the provinces or territories of Canada or elsewhere, that constitutes a Material Adverse Effect;
- (f) all necessary orders, authorizations or consents which are required under all applicable Securities Laws and the rules and policies of the TSX for the offering, issuance and listing of the Fluid Shares and the Convertible Debentures under the Offer shall have been obtained;
- (g) (A) the representations and warranties of the Fund made in or pursuant to this Agreement shall be true and correct at the Expiry Time in all respects with the same force and effect as if made at and as of the Expiry Time; and (B) the covenants contained in this Agreement to be performed by Fund at or prior to the Expiry Time shall have been performed in all respects, except for untrue or incorrect representations and warranties or breaches which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, and the Offeror shall have received a certificate confirming the foregoing, signed for and on behalf of Fund by a senior officer of the Fund (without personal liability), in form and substance satisfactory to the Offeror and the Offeror's counsel, acting reasonably;
- (h) the Agreement shall not have been terminated by either the Offeror or the Fund in accordance with its terms;
- (i) none of the Lock-up Agreements shall have been terminated by either the Offeror or the Locked-up Unitholders in accordance with their terms; and
- (j) all domestic or foreign regulatory approvals, waiting or suspensory periods (including any extensions thereof), waivers, permits, consents (other than Contractual Consents), reviews, orders, rulings, decisions, declarations, certificates and exemptions (including, among others, those of any stock exchanges or other securities or regulatory authorities) which are necessary to obtain in connection with the Offer, any Compulsory Acquisition or any Subsequent Acquisition Transaction shall have been obtained, received or concluded, each on terms and conditions satisfactory to the Offeror in its sole discretion, or, in the case of waiting or suspensory periods (including any extensions thereof), expired or been terminated, each on terms and conditions satisfactory to the Offeror in its sole discretion.

The foregoing conditions are for the sole benefit of the Offeror and may be asserted by the Offeror regardless of the circumstances giving rise to any such condition or, subject to the provisions of the Agreement, may be waived by the Offeror, other than the Minimum Tender Condition, in whole or in part at any time and from time to time in its sole discretion, without prejudice to any other rights which the Offeror may have.

### ***Representations and Warranties***

The Fund made certain representations and warranties to the Offeror with respect to, among other matters: (i) organization and qualification; (ii) subsidiaries; (iii) capitalization; (iv) authority; (v) consents and approvals; (vi) absence of certain changes or events; (vii) filings; (viii) financial matters; (ix) tax matters and (x) U.S. securities law matters.

The Offeror made certain representations and warranties to the Fund with respect to: (i) organization; (ii) capitalization; (iii) authority and non-conflict; (iii) consents and approvals; (iv) absence of certain changes or events; (v) financing arrangements; (iv) Locked-Up Unitholders; (v) Investment Canada Act; (vi) filings; and (vii) tax matters.

### ***Covenants of the Fund***

The Fund covenants and agrees in the Support Agreement that prior to the earlier of: (i) the appointment or election to the Board of Trustees of persons designated by the Offeror who represent a majority of the trustees of the Fund; and (ii) the termination of the Support Agreement, the Fund shall, and shall cause each of the Fund Subsidiaries to, conduct its business or other activity only in, not take any action except in, and maintain its facilities in the ordinary course.

Subject to certain conditions, the Fund has also agreed, upon request by, and at the expense of, the Offeror, to use commercially reasonable efforts to, prior to the Expiry Time, take such actions as are necessary to reorganize its and/or the Fund Subsidiaries' capital, assets and structure or effect such other transactions as the Offeror may reasonably require ("**Pre-Acquisition Reorganization Activity**"). Such conditions include that: (i) any Pre-Acquisition Reorganization Activity shall not delay or prevent the completion of the Offer and the other transactions set out in the Support Agreement; (ii) any Pre-Acquisition Reorganization Activity shall not unreasonably interfere with the ongoing operations of the Fund or any of the Fund Subsidiaries; (iii) such Pre-Acquisition Reorganization Activity shall be implemented as close as possible to or concurrent with the Expiry Time; (iv) neither the Fund nor any of the Fund Subsidiaries shall be required to take any action in contravention of applicable law, their respective organizational documents or any material agreements; (v) any such Pre-Acquisition Reorganization Activity shall be contingent upon the Offeror confirming that the conditions of the Offer set forth in the Support Agreement have been satisfied or waived by the Offeror and that such take-up of the Units tendered to the Offer will occur (it being understood that in any event the Pre-Acquisition Reorganization Activity will be deemed to have occurred immediately prior to the Expiry Time); (vi) the Pre-Acquisition Reorganization Activity shall not affect or modify in any respect the obligations of the Offeror under the Support Agreement, (vii) none of the Fund or the Fund Subsidiaries shall be required to take any action that could adversely affect the classification of the Fund as a mutual fund trust for purposes of the *Income Tax Act* (Canada); and (viii) none of the Fund or the Fund Subsidiaries shall be required to take any action that could reasonably be expected to result in Taxes being imposed on, or any adverse Tax or other consequences to, any unitholder or other equity interest holder of the Fund or a Fund Subsidiary or any trustee, incrementally greater than the Taxes or other consequences to such party in connection with the consummation of the Support Agreement in the absence of action being taken in connection with any Pre-Acquisition Reorganization Activity.

The Offeror also agreed in the Support Agreement to indemnify and hold harmless the Fund, the Fund Subsidiaries and their respective trustees, directors, officers and employees from and against any and all liabilities, losses, damages, claims, costs, expenses, interest, awards, judgments and penalties suffered or incurred by them in connection with or as a result of taking any Pre-Acquisition Reorganization Activities.

### ***Alternative Acquisition Proposals***

The Fund has retained the ability to directly or indirectly, through any officer, trustee, director, employee, representative, advisor or agent of or to the Fund or any of the Fund Subsidiaries, solicit, initiate, invite or

knowingly encourage or facilitate (including by way of furnishing information, permitting any visit to any facilities or properties of the Fund or any of the Fund Subsidiaries, or entering into any form of agreement, arrangement or understanding) any inquiries, proposals or offers from third parties which may lead to a proposal to acquire all of the Units, the Fund or substantially all of its assets (an “**Acquisition Proposal**”). The Fund is entitled to discuss and negotiate an Acquisition Proposal or a potential Acquisition Proposal with one or more third parties at any time from the date of the Support Agreement, provided that the Fund will not furnish any confidential information of the Fund or the Fund Subsidiaries to any such party without first requiring the party to enter into a confidentiality agreement.

### ***Covenants of the Offeror***

The Offeror has agreed to conduct its business or other activity only in, not take any action except in, and maintain its facilities in the Ordinary Course.

The Offeror has also covenanted, among other things: (a) to cause the Fund to keep current indemnity agreements in place for the current and former Trustees, directors and officers of the Fund and the Subsidiaries and to indemnify the current and former Trustees, directors and officers of the Fund and the Subsidiaries to the fullest extent permitted from all claims in connection with the Fund and transactions contemplated under the Support Agreement; (b) to use reasonable commercial efforts to assist in obtaining consent of the Required Lenders or adequate funds to replace the debt outstanding under the Credit Agreement; and (c) to take all steps necessary to satisfy the conditions contained in the Standby Commitment Documents and complete the Required Financing.

### ***Compulsory Acquisition/Subsequent Acquisition Transaction.***

If the Offeror takes up and pays for Units under the Offer, the Offeror has agreed, as soon as practicable, but in any event within 60 days after the Offeror takes up and pays for Units under the Offer, to pursue and use its best commercial efforts to complete a Compulsory Acquisition or a Subsequent Acquisition Transaction to acquire the remaining Units. The Fund has agreed that it will use reasonable commercial efforts to assist the Offeror in completing any such Subsequent Acquisition Transaction or Compulsory Acquisition.

### ***Board Representation***

Promptly upon the payment by the Offeror for such number of Units representing at least 66<sup>2/3</sup>% of the outstanding Units at the Expiry Time and from time to time thereafter, the Offeror shall be entitled, subject to the Declaration of Trust, to designate for replacement such number of members of the Board of Trustees, and any committees thereof which would constitute a majority of the Board of Trustees and any committee thereof as is proportionate to the percentage of the outstanding Units owned by the Offeror, and the Fund shall not frustrate the Offeror’s attempts to do so. The Fund further covenants in the Support Agreement to cooperate with the Offeror, subject to Applicable Laws, to enable the Offeror’s designees to be elected or appointed to the Board of Trustees and to constitute a majority of the Board of Trustees, including at the request of the Offeror by its reasonable efforts to increase the size of the Board of Trustees and/or secure the resignations of such number of trustees as is necessary for the Offeror’s designees to be elected or appointed by the Board of Trustees. These provisions shall apply mutatis mutandis to the board and committees or similar governing entities of each Fund Subsidiary.

### ***Termination***

The Support Agreement may be terminated by notice in writing:

- (a) at any time prior to the Effective Time by mutual consent of the Offeror and the Fund;
- (b) by either the Offeror or the Fund if any Applicable Law makes the making or completion of the Offer or the transactions contemplated by the Support Agreement illegal or otherwise prohibited;
- (c) by the Fund if the Offeror shall not have performed in all material respects any covenant to be performed by it under the Support Agreement or if any representation or warranty of the Offeror shall have been or become inaccurate in any material respect and such failure to perform or inaccuracy is (a) reasonably likely to prevent, restrict or materially delay consummation of the

Offer and (b) not curable or, if curable, is not cured by the earlier of the date which is 15 days from the date of written notice of such breach and the Expiry Time;

- (d) by the Offeror if (i) the Fund has breached in a material respect any other covenant or obligation under the Support Agreement, or (ii) any representation or warranty made by the Fund in the Support Agreement shall have been at the date of the Support Agreement untrue or incorrect or shall have become untrue or incorrect at any time prior to the Expiry Time other than any breach or failure of such representations and warranties to be true and correct that, individually or in the aggregate, do not constitute or could not reasonably be expected to constitute, or could not reasonably be expected to result in, a Material Adverse Effect or prevent or restrict or materially delay the consummation of the Offer, or that, if the Offer were consummated, could reasonably be expected to have a material adverse effect on the Offeror; provided that such right of termination shall not be available with respect to any breach or failure that is capable of being cured and such breach or failure has been cured by the earlier of the date which is 15 days from the date of written notice of such breach or failure and the business day prior to the Expiry Date;
- (d) by the Offeror or the Fund if the Minimum Tender Condition is not satisfied or any other condition of the Offer shall not be satisfied or waived at the Expiry Time of the Offer (as such Expiry Time may be extended from time to time by the Offeror in accordance with the terms of the Support Agreement);
- (e) by the Offeror if there shall have occurred after the date of the Support Agreement (or if there does exist or shall have previously occurred, there shall not have been disclosed after the date hereof, generally by way of press release and material change report or to the Offeror in writing) any Material Adverse Effect; or
- (f) by the Fund or the Offeror, if the Offeror has not taken up and paid for Units deposited under the Offer within 90 days after the date of the Offer; provided, however, that if the Offeror's take up and payment for Units deposited under the Offer is delayed by (i) an injunction or order made by a court or regulatory authority of competent jurisdiction, or (ii) the Offeror not having obtained any regulatory waiver, consent (other than Contractual Consents) or approval which is necessary to permit the Offeror to take up and pay for Units deposited under the Offer, then, provided that such injunction or order is being contested or appealed or such regulatory waiver, consent or approval is being actively sought, as applicable, this Agreement shall not be terminated by the Fund pursuant to this provision until the earlier of (i) 120 days after the date the Offer is commenced, and (ii) the 10th business day following the date on which such injunction or order ceases to be in effect or such waiver, consent or approval is obtained, as applicable, and provided that the failure of the Expiry Date to so occur is not the result of the breach of a representation, warranty or covenant by the party terminating the Support Agreement.

### ***Standstill and Expense Reimbursement***

The Offeror requires approval from the TSX to issue its common shares and Convertible Debentures to Unitholders electing the Share Alternative or the Convertible Debenture Alternative. As part of the approval process, the TSX has the discretion to require the prior approval of the Offeror's shareholders. The TSX may permit the Offeror to obtain any required shareholder approval in writing. If the TSX requires approval of the Offeror's shareholders, the transactions contemplated in the Support Agreement could be delayed until the Offeror has obtained such approval. If the transactions contemplated in the Support Agreement are not consummated as a result of the Offeror requiring the approval of its shareholders and the Offeror's shareholders do not approve the transactions contemplated in the Support Agreement, during the period of three months from the date of termination of the Support Agreement, neither the Offeror nor any of its affiliates will, directly or indirectly, without the prior written consent of the Board of Trustees: (a) acquire or agree to acquire or make any offer or proposal to acquire any Units; (b) solicit any proxies from the holders of Units or form, join, or in any way participate in a group to so solicit or otherwise attempt to influence the conduct of management of the Company or of the holders of Units; (c) make any proposal for or offer of an extraordinary transaction (including, without limitation, by way of a take-over bid, tender or exchange offer, amalgamation, merger or other business combination) involving the Fund or any of its affiliates or their respective securities or assets; or (d) assist, advise or encourage any person in doing any of the

foregoing, provided, however, that the foregoing provisions shall no longer apply upon the earlier to occur of: (a) the date the Fund approves or enters into or announces the approval or entering into, of an agreement, transaction or proposal with a person (a “**Supported Acquiror**”) other than the Offeror, a person under common control with the Offeror or a person acting jointly or in concert with the foregoing, having as its object the acquisition, directly or indirectly, of: (i) such number of the outstanding Units as would, when added to the Units of the Supported Acquiror, a person under common control with the Supported Acquiror or a person acting jointly or in concert with the foregoing, constitute a sufficient number of Units to control the Fund; or (ii) a material portion of the assets of the Fund, and (b) the date a person other than the Offeror, a person under common control with the Offeror or a person acting jointly or in concert with the foregoing publicly announces a bona fide take-over bid for more than 50% of the outstanding Units not already owned by such person or its affiliates.

If the transactions contemplated in the Support Agreement are not consummated as a result of the Offeror requiring the approval of its shareholders and the Offeror’s shareholders do not approve the transactions contemplated in the Support Agreement, the Offeror shall pay to the Fund its reasonable and documented out-of-pocket expenses not to exceed \$500,000 plus 50% of its reasonable and documented out-of-pocket expenses between \$500,000 and \$750,000, in each case incurred by the Fund since September 1, 2009 in connection with the transactions contemplated by the Offer.

### ***LTIP Units***

Subject to the receipt of all necessary regulatory approvals, the Fund shall make such amendments to the LTIP, if any, as may be necessary, and take all such other steps as may be necessary or desirable, to cause all of the Unvested LTIP Units to conditionally vest on an accelerated vesting basis in order to permit the Units underlying the Unvested LTIP Units to be tendered under the Offer, conditional upon the Offeror agreeing to take-up such Units. Holders of Unvested LTIP Units will be permitted to tender Units issuable thereunder conditional upon the Offeror taking-up and paying for the Units under the Offer, which Unvested LTIP Units shall be deemed to have been vested and the Units issuable thereunder shall be deemed to have been tendered under the Offer concurrently with the take-up of and payment for Units and all Units that are to vest in such manner shall be acceptable as validly tendered under the Offer, provided that the holders of such Unvested LTIP Units indicate that the Units are tendered pursuant to the Offer and otherwise validly accept the Offer in accordance with its terms with respect to such Units.

### ***Trustees’ and Officers’ Insurance***

The Fund will purchase non-cancellable run-off trustees’ and officers’ liability insurance providing protection comparable to the protection provided by policies maintained by the Fund in effect immediately prior to the effective time in favour of present and former trustees and officers of the Fund and the Fund Subsidiaries and providing protection in respect of claims arising from facts or events which occurred prior to the effective time for a period of six years after the effective time. The obligation to obtain and provide run-off trustees’ and officers’ insurance is intended to be for the benefit of the trustees of the Fund and is in keeping with the Fund’s obligations to each of them pursuant to the terms of the indemnification agreement entered into by the Fund with each of the trustees. Accordingly, each trustee is entitled to enforce this covenant against the Fund and its successor for the benefit of that trustee.

### ***Lock-Up Agreements***

Each Lock-Up Agreement sets forth, among other things, the terms and conditions upon which each Locked-Up Unitholder has agreed, among other things, to deposit under the Offer all of the Units legally or beneficially owned or controlled by the Locked-Up Unitholder. The following is a summary of the principal terms of the Lock-Up Agreements. This summary is qualified in its entirety by the terms of the Lock-Up Agreements, copies of which were filed by the Offeror on SEDAR and are available at [www.sedar.com](http://www.sedar.com).

The Locked-Up Unitholders legally or beneficially own or control, in the aggregate, 11,762,236 Units (representing approximately 66% of the outstanding Units on a fully-diluted basis). The Locked-Up Unitholders have agreed not to withdraw such Units from the Offer except and unless the Lock-Up Agreements are terminated in accordance with their terms.

The following is a summary of the principal terms of the Lock-Up Agreements.

***Acceptance of the Offer.***

Pursuant to the Lock-Up Agreements, each of the Locked-Up Unitholders has agreed to deposit or cause to be deposited under the Offer all of the Units legally or beneficially owned or controlled by the Locked-Up Unitholder and within 5 Business Days of the mailing of this Circular, and thereafter except as may be permitted under the Lock-Up Agreement not withdraw or permit the Locked-Up Unitholder's Units to be withdrawn from the Offer. In the event that a Locked-Up Unitholder subsequently obtains any additional Units, such Units shall likewise be deposited under the Offer on or before the fifth business day after they are acquired. Locked-Up Unitholders holding an aggregate of 7,476,250 Units have agreed to elect the Convertible Debenture Alternative, Locked-Up Unitholders holding an aggregate of 3,551,786 Units have agreed to elect the Cash Alternative and Locked-Up Unitholders holding an aggregate of 734,200 Units have agreed to elect either the Convertible Debenture Alternative or the Cash Alternative.

***Termination of the Lock-up Agreements.***

Each of the Lock-Up Agreements may be terminated in certain circumstances, including:

- (a) at any time by mutual consent of the Locked-Up Unitholder and the Offeror;
- (b) by the Locked-Up Unitholder, if the Offeror has not taken up and paid for Units deposited under the Offer within 90 days after the date of the Offer; provided, however, that if the Offeror's take up and payment for Units deposited under the Offer is delayed by (i) an injunction or order made by a court or regulatory authority of competent jurisdiction, or (ii) the Offeror not having obtained any regulatory waiver, consent or approval which is necessary to permit the Offeror to take up and pay for Units deposited under the Offer, then, provided that such injunction or order is being contested or appealed or such regulatory waiver, consent or approval is being actively sought, as applicable, the Lock-Up Agreement shall not be terminated by the Locked-Up Unitholder until the earlier of (i) 120 days after the date the Offer is commenced, and (ii) the 10th business day following the date on which such injunction or order ceases to be in effect or such waiver, consent or approval is obtained, as applicable;
- (c) by the Locked-Up Unitholder at any time if the Offer is modified in a manner contrary to the terms of the Lock-Up Agreement;
- (d) by the Locked-Up Unitholder, if a Competing Bid (as defined below) is made for 100% of the outstanding Units that offers consideration per Unit payable in cash and/or freely tradable and liquid securities (or in the case of the Locked-Up Unitholders holding Class B LP Units, listed securities) that is greater than \$3.25;
- (e) by the Offeror if the Locked-Up Unitholder has not materially complied with its covenants to the Offeror contained in the Lock-Up Agreement;
- (f) by the Offeror if any of the representations and warranties of the Locked-Up Unitholder contained in the Lock-Up Agreement is untrue or inaccurate in any material respect;
- (g) in the case of the Locked-Up Unitholders holding Class B LP Units, by the Locked-Up Unitholder if any of the representations and warranties of the Offeror contained in the Lock-Up Agreement is untrue or inaccurate in any material respect; or
- (h) by the Offeror or the Locked-Up Unitholder, if any term or condition of the Offer is not satisfied at the Expiry Time of the Offer and the Offeror has not elected to waive such condition.

***Covenants of the Locked-Up Unitholders.***

Each Locked-Up Unitholder has agreed that it shall not, until the earlier of: (i) the termination of the Lock-Up Agreement; and (ii) the Expiry Time, except in accordance with the terms of the Lock-Up Agreement:

- (a) grant or agree to grant any proxy or other right to the Units, or enter into any voting trust or pooling agreement or arrangement or enter into or subject any of such Units to any other agreement, arrangement, understanding or commitment, formal or informal, with respect to or relating to the voting thereof;
- (b) directly or indirectly, through any officer, director, employee, advisor, representative, agent or otherwise (as applicable), make, solicit, assist, initiate, encourage, or otherwise facilitate any inquiries, the submission of proposals or offers from any other person, corporation, partnership or other business organization whatsoever regarding a potential competing proposal for the acquisition of the Units (a “**Competing Bid**”), participate in any material discussions or negotiations regarding any Competing Bid, or otherwise cooperate in any way with, or assist or participate in, knowingly facilitate or encourage, any effort or attempt by any other person to do or seek to do any of the foregoing;
- (c) option, sell, transfer, dispose of, pledge, encumber, grant a security interest in or otherwise convey any Units or any right or interest therein, or agree to do any of the foregoing except pursuant to the Offer; and
- (d) not take any action to encourage or assist any other person to do any of the prohibited acts referred to in foregoing provisions.

Each of the Locked-Up Unitholders has also agreed that it shall, until the earlier of: (i) the termination of the Lock-Up Agreement; and (ii) the Expiry Time, except in accordance with the terms of the Lock-Up Agreement:

- (a) immediately cease any existing discussions or negotiations it is engaged in with any parties other than the Offeror with respect to any Competing Bid; and
- (b) exercise the voting rights attaching to the Locked-Up Unitholder’s Units and otherwise use the Locked-Up Unitholder’s commercially reasonable efforts in the Locked-Up Unitholder’s capacity as a Unitholder to oppose any proposed action by the Fund, its Unitholders, any of its subsidiaries or any other person: (i) in respect of any amalgamation, merger, sale of the Fund’s or its affiliates’ or associates’ assets, take-over bid, plan of arrangement, reorganization, recapitalization, or other business combination or similar transaction involving the Fund or any of its subsidiaries other than the Offer; (ii) which would reasonably be regarded as being directed towards or likely to prevent or delay the take-up and payment of the Locked-Up Unitholder’s Units deposited under the Offer or the successful completion of the Offer, including without limitation any amendment to the constating documents of the Fund, its subsidiaries or its organizational structure; or (iii) which would reasonably be expected to result in a material adverse effect in respect of the Fund.

### OWNERSHIP OF SECURITIES

As of October 19, 2009, there were 14,493,300 issued and outstanding Trust Units (17,811,531 on a fully-diluted basis). The following table sets out the names of each of the Trustees of the Fund and senior officers of Somerset and the number of outstanding Units beneficially owned as at October 19, 2009, directly or indirectly, or over which control or direction may be exercised by each such person and, where known after reasonable enquiry, by the associates of the Trustees of the Fund and senior officers of Somerset and any person or company acting jointly or in concert with the Fund.

| Name and Title                          | Units held directly | Units held indirectly or over which control or direction may be exercise | Percentage of outstanding Units held on a Fully-Diluted Basis |
|---|---------------------|--|---|
| Andy Burgess<br>Chief Executive Offer   | 122,224             | 1,659,115 <sup>(1)</sup>   | 10%   |
| Gordon Gibson<br>Chief Creative Officer | 111,331             | 1,659,116 <sup>(2)</sup>   | 10%   |

| <b>Name and Title</b>   | <b>Units held directly</b> | <b>Units held indirectly or over which control or direction may be exercise</b> | <b>Percentage of outstanding Units held on a Fully-Diluted Basis</b> |
|---|----------------------------|---|--|
| William Ardell<br>Chairman of the Board                             | 13,500                     | -   | Less than 1%   |
| W. Judson Martin<br>Trustee   | 61,300                     | -   | Less than 1%   |
| Keith Harrison<br>Trustee   | -                          | -   | -  |
| Timothy Casgrain<br>Trustee   | 10,000                     | -   | Less than 1%   |
| Robert Meier<br>Chief Financial Officer                             | 41,689                     | -   | Less than 1%   |
| Kevin White<br>President Somerset U.S.                              | -                          | -   | -  |
| Ed Bonner<br>Chief Operating Officer                                | 46,555                     | -   | Less than 1%   |
| Bonnie Bunting<br>Vice President Human Resources                    | 30,134                     | -   | Less than 1%   |
| Troy Cockriell<br>Vice President Interactive and Digital Technology | 53,095                     | -   | Less than 1%   |
| Anthony Marques<br>Vice President Logistics and Product Supply      | 52,879                     | -   | Less than 1%   |
| Bob McCabe<br>Vice President Sales International                    | 51,728                     | -   | Less than 1%   |
| Ceci Miller<br>Vice President Sales US Gift                         | 9,081                      | -   | Less than 1%   |
| Chris O'Reilly<br>Vice President Sales Canada                       | 49,610                     | -   | Less than 1%   |
| Brad Rogers<br>Vice President Music Production                      | 22,144                     | -   | Less than 1%   |
| John Wu<br>Vice President Finance                                   | 49,755                     | -   | Less than 1%   |
| Andrea Ziegler<br>Chief Executive Officer Puretracks                | -                          | -   | -  |
| Don Green<br>Vice President of Operations Puretracks                | -                          | -   | -  |
| Norm Crooks, Vice President of Research & Development Puretracks    | -                          | -   | -  |
| <b>TOTAL</b>  | <b>725,025</b>             | <b>3,318,231</b>  | <b>Approximately 22.7%</b>   |

Notes:

- (1) Class B LP Units held by Fontainebleau Investments Ltd.
- (2) Class B LP Units held by Whiskey Jack Creek Ltd.

To the knowledge of the Trustees and senior officers of Somerset after reasonable inquiry, as of October 19, 2009, other than Intrepid Capital Corp. which, according to public filings, owns approximately 21.4% of Units (on a fully-diluted basis), Andy Burgess who directly and indirectly owns or controls approximately 10% of the Units (on a fully-diluted basis), and Gordon Gibson who directly and indirectly owns or controls approximately 10% of the Units (on a fully-diluted basis) no person or company holds more than 10% percent of the outstanding Units (on a fully-diluted basis).

### TRADING IN SECURITIES BY TRUSTEES AND SENIOR OFFICERS

Except as set forth below, during the six months preceding the date hereof, none of the Fund, or the Trustees or senior officers of Somerset, nor, to the knowledge of the Trustees and senior officers of Somerset after reasonable enquiry, any of their respective associates, or any person or company acting jointly or in concert with the Fund, has traded any Units or debt securities of the Fund.

| Individual or Entity | Date of Trade     | Type of Security | Number of Securities Acquisition (+)/Disposition (-) | Price per Security    |
|----------------------|-------------------|------------------|--|-----------------------|
| Edward Bonner        | September 9, 2009 | Units            | +10,901  | \$1.23 <sup>(1)</sup> |
| Bonnie Bunting       | September 9, 2009 | Units            | +16,144  | \$1.23 <sup>(1)</sup> |
| Andy Burgess         | September 9, 2009 | Units            | +37,552  | \$1.23 <sup>(1)</sup> |
| Troy Cockriell       | September 9, 2009 | Units            | +21,194  | \$1.23 <sup>(1)</sup> |
| Gordon Gibson        | September 9, 2009 | Units            | +31,989  | \$1.23 <sup>(1)</sup> |
| Anthony Marques      | September 9, 2009 | Units            | +21,117  | \$1.23 <sup>(1)</sup> |
| Robert McCabe        | September 9, 2009 | Units            | +20,468  | \$1.23 <sup>(1)</sup> |
| Robert Meier         | September 5, 2009 | Units            | -7,400   | \$1.10                |
| Robert Meier         | September 9, 2009 | Units            | +15,540  | \$1.23 <sup>(1)</sup> |
| Chris O'Reilly       | September 9, 2009 | Units            | +17,522  | \$1.23 <sup>(1)</sup> |
| John Wu              | September 9, 2009 | Units            | +16,687  | \$1.23 <sup>(1)</sup> |

Notes:

- (1) Pursuant to the LTIP. Note that \$1.23 is an average price of the Units purchased.

### GRANTS OF UNITS

No Units or Class B LP Units have been issued or granted to the Trustees or senior officers of the Fund during the two years preceding the date of this Circular.

### OWNERSHIP OF SECURITIES OF THE OFFEROR

None of the Fund, its Trustees or senior officers and, to the knowledge of the Trustees and senior officers of Somerset after reasonable enquiry, none of their respective associates or any person or company acting jointly or in concert with the Fund owns, or exercises control or direction over securities of the Offeror.

### INTENTIONS WITH RESPECT TO THE OFFER

Each of the Trustees and senior officers of Somerset and, to their knowledge after reasonable inquiry, their respective associates, any person or company acting jointly or in concert with the Fund, have indicated their intention to accept the Offer. Each of Andy Burgess and Fontainebleau Investments Ltd. (a company controlled by him), and Gordon Gibson and Whiskey Jack Creek Ltd. (a company controlled by him), has agreed to tender its Units to the Cash Alternative pursuant to and subject to the terms of the Lock-up Agreements.

## **AGREEMENTS BETWEEN THE FUND AND ITS TRUSTEES AND SENIOR OFFICERS**

Except as set forth below, no arrangements or agreements have been made or are currently proposed to be made between the Fund and any of its Trustees or senior officers as to any payments or other benefits to be made or given by way of compensation for loss of office or as to its Trustees or senior officers remaining in or retiring from office if the Offer is completed.

### **Insurance Arrangements**

The Trustees and the directors and officers of Somerset are covered under an insurance policy that provides an aggregate limit of liability to the insured Trustees, directors and officers of \$10 million.

Pursuant to the Support Agreement, the Fund has agreed to (i) use its reasonable commercial efforts, and cause each of the Fund Subsidiaries to use its reasonable commercial efforts, to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse and (ii) to purchase non-cancellable run-off trustees' and officers' liability insurance providing protection comparable to the protection provided by policies maintained by the Fund in effect immediately prior to the Effective Time in favour of present and former trustees and officers of the Fund and the Fund Subsidiaries and providing protection in respect of claims arising from facts or events which occurred prior to the Effective Time for a period of six years after the Effective Time

### **Indemnity Arrangements**

The by-laws of Somerset and the Declaration of Trust provide for the indemnification of Trustees, directors and officers from and against liability and costs in respect of any action or suit against them in connection with the execution of their duties of office, subject to certain usual limitations.

The Fund has indemnity agreements in place for certain of the current and former trustees, directors and officers of the Fund and its Subsidiaries to indemnify such current and former trustees, directors and officers to the fullest extent permitted under their respective declarations of trust, charters, by laws, contracts of indemnity and under applicable Law.

Pursuant to the Support Agreement, the Offeror has agreed to cause the Fund and the Fund Subsidiaries to keep the current indemnity agreements in place for the current and former trustees, directors and officers of the Fund and the Fund Subsidiaries.

### **Employment Arrangements**

Each of Andy Burgess and Gordon Gibson have employment agreements with Somerset, the terms of which are set out in the Management Information Circular of the Fund dated March 11, 2009 and available on SEDAR at [www.sedar.com](http://www.sedar.com). Pursuant to the terms of these employment agreements, Mr. Burgess and Mr. Gibson receive an annual base salary and entitlements to an annual performance bonus and a termination payment in event of termination without cause.

Pursuant to the Support Agreement, the employment agreements with Mr. Burgess and Mr. Gibson have been amended to provide that (i) Mr. Burgess and Mr. Gibson each agree not to resign within six months following the completion of the Offer and, if either of such persons does resign within such six month period, such person will not be entitled to receive any payments pursuant to section 5.5 of their respective employment agreements (a "**Change of Control Payment**") as a result of such resignation, and (ii) if Mr. Burgess or Mr. Gibson resign in the period between 6 months and 12 months following the completion of the Offer, he shall be entitled to a Change of Control Payment.

## **Long-Term Incentive Plan**

The officers and key employees of Somerset are eligible to participate in Somerset's Long-Term Incentive Plan (the "LTIP"), the terms of which are set out in the Management Information Circular of the Fund dated March 11, 2009 and available on SEDAR at [www.sedar.com](http://www.sedar.com).

Pursuant to the Support Agreement, the Fund and the Offeror agreed to (i) make such amendments to the LTIP, if any, as may be necessary, and take all such other steps as may be necessary or desirable, to cause all of the Unvested LTIP Units to conditionally vest on an accelerated vesting basis in order to permit the Units underlying the Unvested LTIP Units to be tendered under the Offer, conditional upon the Offeror agreeing to take-up such Units; and (ii) to permit holders of Unvested LTIP Units to tender Units issuable thereunder conditional upon the Offeror taking-up and paying for the Units under the Offer, which Unvested LTIP Units shall be deemed to have been vested and the Units issuable thereunder shall be deemed to have been tendered under the Offer concurrently with the take-up of and payment for Units. All Units that are to vest in such manner shall be acceptable as validly tendered under the Offer, provided that the holders of such Unvested LTIP Units indicate that the Units are tendered pursuant to the Offer and otherwise validly accept the Offer in accordance with its terms with respect to such Units.

## **RELATIONSHIP BETWEEN THE OFFEROR AND TRUSTEES AND SENIOR OFFICERS OF THE FUND**

Other than the Lock-up Agreements, no contracts or agreements (including any contracts, arrangements or agreements as to any payments or other benefits to be made or given by way of compensation for loss of office or as to the Trustees or senior officers of the Fund remaining or retiring from office if the Offer is successful) have been made or are proposed to be made between the Offeror and any of the Trustees or senior officers of Somerset. None of the Trustees or senior officers of Somerset is a director or officer of the Offeror or any subsidiary or affiliate of the Offeror. None of the Trustees and senior officers, or their respective associates has any interest in any material contract to which the Offeror is a party, except the Lock-Up Agreements.

## **INTERESTS OF THE TRUSTEES OF THE FUND AND SENIOR OFFICERS OF SOMERSET IN MATERIAL TRANSACTIONS OF THE OFFEROR**

On October 12, 2009, the Offeror entered into the Lock-Up Agreements with each of Andy Burgess and Gordon Gibson. Details of the Lock-Up Agreements are set out in this circular under *Agreements with the Offeror – Lock-Up Agreements*.

## **MATERIAL CHANGES IN THE AFFAIRS OF THE FUND**

Except as publicly disclosed or otherwise described in this Circular, none of the Trustees or senior officers of the Fund is aware of any information that indicates any material change in the affairs or prospects of the Fund since the date of its last published financial statements, being its interim unaudited financial statements and management's discussion and analysis for the quarter ended June 30, 2009, each of which were filed on SEDAR on August 12, 2009.

## **OTHER INFORMATION**

Except as disclosed in this Circular, there is no information that is known to the Trustees which would reasonably be expected to affect the decision of Unitholders to accept or reject the Offer.

## **STATUTORY RIGHTS**

Securities legislation in the provinces and territories of Canada provides Unitholders with, in addition to any other rights they may have at law, one or more rights of rescission, price revision or to damages, if there is a misrepresentation in a circular or notice that is required to be delivered to Unitholders. However, such rights must be exercised within prescribed time limits. Unitholders should refer to the applicable provisions of the securities legislation of their province or territory for particulars of those rights or consult a lawyer.

**APPROVAL OF THE TRUSTEES' CIRCULAR**

The contents of this Circular have been approved by the Board of Trustees and the delivery of this Circular has been authorized by the Board of Trustees.

**CONSENT**

**Consent of TD Securities Inc.**

**To: The Trustees of Somerset Entertainment Income Fund (the "Fund")**

We hereby consent to the references in the Trustees' Circular of the Fund dated October 20, 2009 to our opinion dated October 12, 2009, and to the inclusion of the text of our opinion attached as Exhibit "B" to the Trustees' Circular. In providing our consent, we do not permit any person other than the Board of Trustees to rely upon our opinion.

DATED at Toronto, Ontario, Canada this 20<sup>th</sup> day of October, 2009.

(Signed) TD SECURITIES INC.

**CERTIFICATE**

DATED: October 20, 2009

The foregoing contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it is made.

On behalf of the Board of Trustees of  
Somerset Entertainment Income Fund

(Signed) WILLIAM ARDELL  
Chair of the Board of Trustees

(Signed) ANDY BURGESS  
Trustee, Chief Executive Officer

## EXHIBIT "A" GLOSSARY

The following is a glossary of certain terms used in this Circular. Capitalized terms used in this Circular and not otherwise defined in this Circular have the meanings ascribed to them in the Support Agreement.

**"Acquisition Proposal"** has the meaning given to it under *Agreements with the Offeror – Support Agreement – Alternative Acquisition Proposals*.

**"affiliate"** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an affiliate; "control" as used with respect to any Person, means the possession, directly or indirectly, of the power, in fact, to appoint the directors, management committee or similar managing body of such Person, through the ownership of voting securities.

**"Applicable Laws"** includes any federal, provincial, state, regional, municipal or local law, ordinances, rules, policies, guidelines, judgements, decrees, orders, authorizations, approvals, notices, licences, permits, directives or other requirements of any Governmental Authority having force of law.

**"Board"** or **"Board of Trustees"** means the Board of Trustees of the Fund.

**"Business Day"** means any day except a Saturday, Sunday or statutory holiday in Toronto, Ontario.

**"Cash Alternative"** has the meaning given to it on the front page of this Circular.

**"Circular"** means this Trustees' Circular.

**"Class B LP Units"** means the Class B limited partnership units of the Partnership.

**"Compulsory Acquisition"** means a compulsory acquisition pursuant to the Offer for Units provisions contained in Section 13.13 of the Declaration of Trust as the same may be amended from time to time and an acquisition by the Offeror of Class B LP Units not deposited under the Offer pursuant to the compulsory sale provisions of Section 3.23 of the Limited Partnership Agreement.

**"Convertible Debenture Alternative"** has the meaning given to it on the front page of this Circular.

**"Convertible Debentures"** means the \$1,000 principal amount 8.0% convertible unsecured subordinated debentures of the Offeror due 3 years following the date such debentures are first issued payable by the Offeror under the Convertible Debenture Alternative.

**"Credit Agreement"** means the \$18,200,000 Third Amended and Restated Credit Agreement dated as of October 16, 2008 among the Partnership, The Toronto-Dominion Bank and the institutions named therein as lenders, as the same may be amended and/or restated from time to time.

**"Declaration of Trust"** means the first amended and restated declaration of trust in respect of the Fund dated March 18, 2005, as the same may be or may have been amended or restated.

**"Disclosure Letter"** means the letter dated October 12, 2009 from the Fund to the Offeror delivered concurrently with the Support Agreement.

**"Effective Time"** means the earlier of (i) the appointment or election to the Board of persons designated by the Offeror who represent a majority of the trustees of the Fund and (ii) the termination of the Support Agreement.

**"Expiry Date"** means the date on which the Expiry Time occurs.

“**Expiry Time**” means 6:00 p.m. (Toronto time) on the final acceptance date of the Offer stipulated in the Offer Circular or, if the Offeror extends the final acceptance date for the Offer as permitted or required under the Support Agreement, the time and date designated by the Offeror as the final acceptance date for the extended Offer.

“**Fairness Opinion**” means the opinion of TD Securities dated October 12, 2009, a copy of which is attached hereto as Exhibit “B”.

“**Fluid Related Parties**” means the Offeror, any insider, associate or affiliate of the Offeror and Unitholders who have entered into the Other Lock-Up Agreements.

“**fully-diluted basis**” means, with respect to the number of outstanding Trust Units at any time, such number of outstanding Trust Units calculated assuming that all Class B LP Units are exchanged into Trust Units.

“**Fund**” means Somerset Entertainment Income Fund.

“**GAAP**” means Canadian generally accepted accounting principles.

“**Goodmans**” means Goodmans LLP, legal counsel to the Fund.

“**Governmental Authority**” means: (a) any supranational body or organization, nation, government, state, province, country, territory, municipality, quasi-government, executive, administrative, judicial or regulatory authority, agency, board, body, bureau, commission, commissioner, minister, cabinet, instrumentality, court or tribunal or any political subdivision thereof, or any central bank (or similar monetary or regulatory authority) thereof, any taxing authority, any ministry or department or agency of any of the foregoing; (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any court; (c) any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of such entities or other bodies; or (d) any national securities exchange, any other securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization.

“**Letters of Transmittal**” means the Letters of Acceptance and Transmittal provided by the Offeror to CDS Clearing and Depository Services Inc., or its nominee (which is, at the date hereof, CDS & Co.), as the sole registered holder of Units, for use in connection with the Offer.

“**LTIP**” has the meaning given to it under *Agreements between the Fund and its Trustees and Senior Officers – Long-Term Incentive Plan*.

“**Lock-up Agreements**” means the lock-up agreements between the Offeror and each Locked-up Unitholder dated as of October 12, 2009.

“**Locked-Up Unitholders**” means Andy Burgess, Gordon Gibson, Fidelity Investments Canada ULC, 796723 Ontario Limited, Anglian Holdings Inc., Janis Finkelstein, Allan Silber, Sheldon Finkelstein, Jay Smith, Jason Hendeles and Howson Tattersall Investment Counsel.

“**Material Adverse Effect**” means any condition, event, circumstance, change, occurrence or state of facts that is, or would reasonably be expected to be, material and adverse to the business, assets, operations, capitalization, condition (financial or otherwise), results of operations, cash flows or liabilities (including without limitation any contingent liabilities that may arise through outstanding, pending or threatened litigation or otherwise) of the Fund and the Fund Subsidiaries taken as a whole other than conditions, events, circumstances, changes, occurrences or state of facts relating to or resulting from: (a) any condition, event, circumstance, change, occurrence or state of facts relating to global economic, business, regulatory or political conditions or securities, credit, financial or currency markets in general; (b) changes affecting the Fund’s industry generally; (c) any change in Canadian GAAP; (d) any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of the Fund or any of the Fund Subsidiaries, whether contractual (including change of control provisions) or otherwise, with suppliers, lenders, creditors, competitors, customers, property owners, lessees, investors, vendors or employees resulting from the Support Agreement or the Offer or the announcement thereof; (e) the disclosure by any customer of the Fund or any of the Fund Subsidiaries that it will reduce the amount of business it conducts with the Fund or

any of the Fund Subsidiaries, or cease such business altogether, provided that the amount of the sales reduction resulting from decisions made and conveyed by a customer to the Fund after the date of the Support Agreement does not exceed \$10 million in the aggregate on an annualized basis (based on sales from such customer(s) in the 2008 fiscal year); (f) the failure of the Fund to meet any internal projections, forecasts or estimates of revenues or earnings; (g) any change in the market price or trading volume of the Units related to the Support Agreement or the Offer or the announcement thereof, or primarily resulting from a condition, event, circumstance, change, occurrence or state of facts excluded from this definition of Material Adverse Effect under clauses (a), (b), (c), (d), (e) or (f) hereof; provided, however, that such condition, event, circumstance, change, occurrence or state of facts referred to in clause (a), (b) or (c), above does not primarily relate only to (or have the effect of primarily relating on to) the Fund and the Fund Subsidiaries, taken as a whole, or disproportionately adversely affect the Fund and the Fund Subsidiaries, taken as a whole, compared to other companies of similar size operating in the industry in which the Fund and the Fund Subsidiaries operate.

“**Minimum Tender Condition**” means that, pursuant to item (a) of Schedule “A” to the Support Agreement, there shall have been validly deposited under the Offer and not withdrawn that number of Units which constitute at least 66 2/3% of the Units (on a fully-diluted basis) outstanding at the Expiry Time.

“**Offer**” means the offer by the Offeror to purchase all of the outstanding Units, including Units that may become outstanding upon the conversion, exchange or exercise of securities of the Fund or its subsidiaries, subject to the terms set out in the Offer Documents.

“**Offer Circular**” means the take-over bid circular accompanying the Offer of the Offeror dated the date hereof.

“**Offer Documents**” means, collectively, the Offer, the Offer Circular and the Letters of Transmittal, as may be amended from time to time.

“**Offeror**” means Fluid Music Canada, Inc., a corporation continued under the laws of Canada.

“**Other Lock-Up Agreements**” means the Lock-Up Agreements with the Locked-Up Unitholders other than Andy Burgess and Gordon Gibson.

“**Partnership**” means Somerset Entertainment Limited Partnership.

“**Permitted Distributions**” means monthly distributions to Unitholders made in conformity and consistency in all respects with the Fund’s monthly distribution policies in effect as at the date hereof and having a record date for determination of Unitholders entitled to such distributions that is prior to the Expiry Date, but not to exceed \$0.0167 per Unit per month (but which may be less than such amount).

“**person**” includes any individual, firm, partnership, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate, group, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not having legal status and whether acting in an individual, fiduciary or other capacity.

“**Pre-Acquisition Reorganization Activity**” has the meaning given to it under *Agreements with the Offeror – Support Agreement – Covenants of the Fund*”.

“**Required Financing**” has the meaning given to it in Section 1.6 of Schedule “B” of the Support Agreement.

“**Required Lenders**” has the meaning given to it in the Credit Agreement;

“**SEDAR**” means the system for electronic document analysis and retrieval.

“**Share Alternative**” has the meaning given to it on the front page of this Circular.

“**Somerset**” means Somerset Entertainment Ltd.

**“Subsequent Acquisition Transaction”** means a transaction to acquire all of the Units not tendered to the Offer involving the Fund and/or the Fund Subsidiaries and the Offeror and/or an affiliate of the Offeror which could include, (a) the redemption of all of the outstanding Units (other than Units designated by the Offeror) at the same consideration per Unit payable under the Offer, (b) amendments to the Declaration of Trust to facilitate the implementation of such transactions and consequential matters (including amendments to permit or provide for the compulsory acquisition by the Offeror of the Units and/or the redemption of the Units) and (c) a meeting and/or written resolutions of Unitholders to approve such transactions, the amendments to the Declaration of Trust and consequential matters and which may be effected by way of arrangement, amalgamation, merger, reorganization, consolidation, recapitalization or other transaction involving the Fund, the Fund Subsidiaries and the Offeror or affiliate of the Offeror.

**“Subsidiary”** means a person shall be deemed to be a subsidiary of another person if: (a) it is controlled by: (i) that other; or (ii) that other and one or more persons each of which is controlled by that other; or (iii) two or more persons each of which is controlled by that other; or (b) it is a subsidiary of a person that is that other’s subsidiary; provided, without limitation, that a person will be deemed to control another person if it owns, directly or indirectly, more than 50% of the voting interest in that other person.

**“Support Agreement”** means the Support Agreement dated as of October 12, 2009 between the Offeror and the Fund, a copy of which was filed on SEDAR on October 13, 2009, as it may be amended from time to time in accordance with its terms.

**“TD Securities”** means TD Securities Inc., financial advisor to the Board.

**“Trustees”** means the Trustees of the Fund.

**“Trust Units”** means the units of the Fund other than the special voting units.

**“TSX”** means the Toronto Stock Exchange.

**“Unitholders”** means the holders of the Units, and **“Unitholder”** means any one of them.

**“Units”** means the Trust Units and, unless the context does not permit, Class B LP Units, and includes Trust Units issuable pursuant to the exchange of the Class B LP Units.

**“Unvested LTIP Units”** means the Units held by the LTIP trustee for participants under the LTIP outstanding from time to time which have not yet vested.

**EXHIBIT “B”**  
**TD SECURITIES INC. FAIRNESS OPINION**



TD Securities Inc.  
TD Tower  
66 Wellington Street West, 9th Floor  
Toronto, Ontario M5K 1A2

October 12, 2009

The Board of Trustees and the Special Committee of Independent Trustees  
Somerset Entertainment Income Fund  
20 York Mills Road, Suite 600  
Toronto, Ontario M2P 2C2

To the Board of Trustees and the Special Committee of Independent Trustees:

TD Securities Inc. (“TD Securities”) understands that Somerset Entertainment Income Fund (“Somerset Entertainment” or the “Fund”) is contemplating entering into a support agreement (the “Support Agreement”) in favour of a transaction pursuant to which Fluid Music Canada, Inc. (the “Offeror”) will offer to purchase (the “Offer”) all of the units of the Fund and all of the Class B limited partnership units of Somerset Entertainment Limited Partnership (collectively, the “Units”) for consideration consisting of, at the election of each holder of Units (a “Unitholder”): (a) \$2.12 in cash per Unit (the “Cash Alternative”); (b) 0.003 of a \$1,000 principal amount 8.0% convertible unsecured debenture of the Offeror due 3 years following the date that such debentures are first issued per Unit (the “Convertible Debenture Alternative”); or (c) 1.1 common shares of the Offeror per Unit (the “Share Alternative”). The description above is summary in nature. The specific terms and conditions of the Offer will be more fully described in the take-over bid circular of the Offeror accompanying the Board of Trustees’ circular (the “Circular”), which is to be mailed to Unitholders in connection with the Offer.

TD Securities understands that, as a condition of the Offeror entering into the Support Agreement, each of Andy Burgess and Gordon Gibson entered into lock-up agreements with the Offeror (the “Burgess/Gibson Lock-Up Agreements”). The Offeror has also entered into lock-up agreements with certain other Unitholders of the Fund, who in aggregate, including the holdings of Messrs. Burgess and Gibson, hold approximately 66% of the outstanding Units on a fully-diluted basis (the “Other Lock-Up Agreements” and, collectively with the Burgess/Gibson Lock-Up Agreements, the “Lock-Up Agreements”).

**ENGAGEMENT OF TD SECURITIES**

TD Securities was engaged by Somerset Entertainment pursuant to an engagement agreement dated October 7, 2009 (the “Engagement Agreement”) to prepare and deliver to the Board of Trustees (the “Board”) and the Special Committee of Independent Trustees of the Board (the “Special Committee”) an opinion (the “Fairness Opinion”) as to the fairness of the consideration to be received under the Cash Alternative pursuant to the Offer, from a financial point of view, to Unitholders (other than the Offeror, any insider, associate or affiliate of the Offeror and Unitholders who have entered into the Other Lock-Up Agreements (collectively the “Fluid Related Parties”). **TD Securities has not been asked to address and the Fairness Opinion does not address and should not be relied upon as addressing the Convertible Debenture Alternative or the Share Alternative made available under the Offer.** TD Securities has not prepared a valuation of the Fund or any of its securities or assets and the Fairness Opinion should not be construed as such.

The terms of the Engagement Agreement provide that TD Securities will receive a fee for its services, a portion of which is payable on delivery of the Fairness Opinion and a portion of which is payable on closing of the Offer, and is to be reimbursed for its reasonable out-of-pocket expenses. Furthermore, the Fund has agreed to indemnify TD Securities, in certain circumstances, against certain expenses, losses, claims, actions, suits, proceedings, damages

and liabilities which may arise directly or indirectly from services performed by TD Securities in connection with the Engagement Agreement.

On October 12, 2009, at the request of the Board and the Special Committee, TD Securities orally delivered to the Board and the Special Committee the Fairness Opinion based upon the scope of review and subject to the assumptions and limitations set out herein. This Fairness Opinion provides the same opinion, in writing, as of October 12, 2009. The Fairness Opinion may not be published, reproduced, disseminated, quoted from or referred to without the express prior written consent of TD Securities. Subject to the terms of the Engagement Agreement, TD Securities consents to the inclusion of the Fairness Opinion, in its entirety, with a summary thereof in a form acceptable to TD Securities, in the Circular, and to the filing thereof by the Fund with the applicable Canadian securities regulatory authorities.

#### **CREDENTIALS OF TD SECURITIES**

TD Securities is a Canadian investment banking firm with operations in a broad range of investment banking activities, including corporate and government finance, mergers and acquisitions, equity and fixed income sales and trading, investment management and investment research. TD Securities has participated in a significant number of transactions involving public and private companies and has extensive experience in preparing valuations and fairness opinions.

The Fairness Opinion is the opinion of TD Securities and its form and content have been approved by a committee of senior investment banking professionals of TD Securities, each of whom is experienced in merger, acquisition, divestiture, valuation and fairness opinion matters.

#### **RELATIONSHIP WITH INTERESTED PARTIES**

Neither TD Securities nor any of its affiliates is an insider, associate or affiliate (as those terms are defined in the *Securities Act* (Ontario) (the “Securities Act”)) of the Fund or the Offeror, or any of their respective associates or affiliates (collectively, the “Interested Parties”). Neither TD Securities nor any of its affiliates is an advisor to any of the Interested Parties with respect to the Offer other than to the Fund pursuant to the Engagement Agreement.

TD Securities was initially retained by the Fund in October 2008 to assist in a process to develop strategic alternatives for the Fund. That assignment lapsed prior to execution of the Engagement Agreement. Apart from the foregoing, TD Securities and its affiliates have not been engaged to provide any financial advisory services, have not acted as lead or co-lead manager on any offering of securities of the Fund or any other Interested Party, or had a material financial interest in any transaction involving the Fund or any other Interested Party during the 24 months preceding the date on which TD Securities was first contacted in respect of the Offer.

No understandings or agreements exist between TD Securities and any Interested Party with respect to future financial advisory or investment banking business. TD Securities may in the future, in the ordinary course of its business, perform financial advisory or investment banking services for the Fund or any other Interested Party. The Toronto-Dominion Bank, the parent company of TD Securities, through one or more affiliates currently provides, and may continue to provide, banking services to the Fund or any other Interested Party.

TD Securities acts as a trader and dealer, both as principal and agent, in major financial markets and, as such, may have and may in the future have positions in the securities of any Interested Party and, from time to time, may have executed or may execute transactions on behalf of any Interested Party or other clients for which it may have received or may receive compensation. As an investment dealer, TD Securities conducts research on securities and may, in the ordinary course of its business, provide research reports and investment advice to its clients on investment matters, including matters with respect to the Offer, the Fund or any other Interested Party.

#### **SCOPE OF REVIEW**

In connection with the Fairness Opinion, TD Securities reviewed and relied upon (without attempting to verify independently the completeness or accuracy of) or carried out, among other things, the following:

1. draft of the support agreement dated October 9, 2009;
2. drafts of the Lock-Up Agreements dated October 5, 2009;
3. annual reports of Somerset Entertainment, including the audited financial statements and management's discussion and analysis contained therein, for the three years ended December 31, 2006, 2007 and 2008;
4. quarterly interim reports of Somerset Entertainment, including the unaudited financial statements and management's discussion and analysis contained therein, for the three month periods ended March 31, 2009, June 30, 2009 and for each of the three month periods ended March 31, June 30 and September 30, in each of the years 2006, 2007 and 2008;
5. annual information forms of Somerset Entertainment for the three years ended December 31, 2006, 2007 and 2008;
6. notices of meetings and management proxy circulars for the annual meeting of Unitholders of Somerset Entertainment for the years ended December 31, 2006, 2007 and 2008;
7. long form prospectuses for the initial public offering and the offering of subscription receipts of the Fund (to finance the acquisition of Compass Productions, Inc.);
8. 2009 to 2013 financial forecast for Somerset Entertainment (segmented by major customer and business units), as prepared and updated by management;
9. historical quarterly sales by major customer for the three month periods ended March 31, 2009, June 30, 2009 and for each of the three month periods ended March 31, June 30, September 30 and December 31, in each of the years 2006, 2007 and 2008;
10. other financial, legal and operating materials as provided by Somerset Entertainment management;
11. various research publications prepared by equity research analysts regarding Somerset Entertainment and other selected public entities we considered relevant;
12. public information relating to the business, operations, financial performance and unit/share trading history of Somerset Entertainment and other selected public entities we considered relevant;
13. public information with respect to certain other transactions of a comparable nature we considered relevant;
14. discussions with senior management of Somerset Entertainment with respect to the information referred to above, Somerset Entertainment customers, products, long term prospects and other issues we deemed relevant;
15. discussions with senior management of Somerset Entertainment regarding past discussions with interested parties regarding strategic transactions;
16. representations contained in a certificate addressed to TD Securities dated October 12, 2009 from the senior officers of the Fund;
17. discussions with Goodmans LLP, legal counsel to the Fund and the Board; and
18. such other corporate, industry, and financial market information, investigations and analyses as TD Securities considered necessary or appropriate in the circumstances.

TD Securities has not, to the best of its knowledge, been denied access by the Fund to any information requested by TD Securities. TD Securities has assumed the accuracy and fair presentation of and relied upon the foregoing information.

#### **PRIOR VALUATIONS**

The Fund has represented to TD Securities that it has no knowledge of any prior valuations or appraisals relating to Somerset Entertainment or any affiliate or any of their respective material assets or liabilities made in the preceding 24 months and in the possession or control of Somerset Entertainment other than those which have been provided to TD Securities or, in the case of valuations known to Somerset Entertainment which it does not have within its possession or control, notice of which has not been given to TD Securities.

#### **ASSUMPTIONS AND LIMITATIONS**

With the Board's and the Special Committee's acknowledgement and agreement as provided for in the Engagement Agreement, TD Securities has relied upon the accuracy, completeness and fairness of presentation of all data and other information obtained by it from public sources (including on the System for Electronic Document Analysis and Retrieval ("SEDAR")) or provided to it by the Fund and its personnel, advisors, or otherwise, including the certificate identified below (collectively, the "Information"). The Fairness Opinion is conditional upon such accuracy, completeness and fair presentation. Subject to the exercise of professional judgment, and except as expressly described herein, TD Securities has not attempted to verify independently the accuracy, completeness or fair presentation of any of the Information.

With respect to the budgets, forecasts, projections or estimates provided to TD Securities and used in its analyses, TD Securities notes that projecting future results is inherently subject to uncertainty. TD Securities has assumed, however, that such budgets, forecasts, projections and estimates were prepared using the assumptions identified therein which TD Securities has been advised are (or were at the time of preparation and continue to be) in the opinion of the Fund reasonable in the circumstances. TD Securities has assumed that the Offer will not give rise to material adverse tax consequences for the Fund or Unitholders.

Senior officers of the Fund have represented to TD Securities in a certificate dated October 12, 2009, among other things, that after due inquiry (i) Somerset Entertainment has no information or knowledge of any facts public or otherwise not specifically provided to TD Securities which would reasonably be expected to affect materially the Fairness Opinion to be given by TD Securities; (ii) with the exception of forecasts, projections or estimates referred to in subparagraph (iv) below, the information, data and other material (collectively, the "Information") as filed under Somerset Entertainment's profile on SEDAR and/or provided to TD Securities by or on behalf of Somerset Entertainment or its representatives in respect of Somerset Entertainment and its affiliates in connection with the Offer is or, in the case of historical Information was, at the date of preparation, true, complete and accurate and did not and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary to make the Information not misleading in the light of circumstances in which it was presented; (iii) to the extent that any of the Information identified in subparagraph (ii) above is historical, there have been no changes in any material facts or new material facts since the respective dates thereof which have not been disclosed to TD Securities or updated by more current information not provided to TD Securities by Somerset Entertainment and there has been no material change, financial or otherwise in the financial condition, assets, liabilities (contingent or otherwise), business, operations or prospects of Somerset Entertainment and no material change has occurred in the Information or any part thereof which would have or which would reasonably be expected to have a material effect on the Fairness Opinion; (iv) any portions of the Information provided to TD Securities (or filed on SEDAR) which constitute forecasts, projections or estimates were prepared using the assumptions identified therein, which, in the reasonable opinion of Somerset Entertainment, are (or were at the time of preparation and continue to be) reasonable in the circumstances; (v) there have been no valuations or appraisals relating to Somerset Entertainment or any affiliate or any of their respective material assets or liabilities made in the preceding 24 months and in the possession or control of Somerset Entertainment other than those which have been provided to TD Securities or, in the case of valuations known to Somerset Entertainment which it does not have within its possession or control, notice of which has not been given to TD Securities; (vi) there have been no verbal or written offers or serious negotiations for or transactions involving any material property of Somerset Entertainment or any of its affiliates during the preceding 24 months which have not been disclosed to TD Securities. For the purposes of subparagraphs (v) and (vi),

“material assets”, “material liabilities” and “material property” shall include assets, liabilities and property of Somerset Entertainment or its affiliates having a gross value greater than or equal to CDN\$2.5 million; (vii) since the dates on which the Information was provided to TD Securities (or filed on SEDAR), no material transaction has been entered into by Somerset Entertainment or any of its affiliates; (viii) other than as disclosed in the Information, neither Somerset Entertainment nor any of its affiliates has any material contingent liabilities and there are no actions, suits, claims, proceedings, investigations or inquiries pending or threatened against or affecting the Offer, Somerset Entertainment or any of its affiliates at law or in equity or before or by any federal, national, provincial, state, municipal or other governmental department, commission, bureau, board, agency or instrumentality which may, in any way, materially adversely affect Somerset Entertainment or its affiliates or the Offer; (ix) all financial material, documentation and other data concerning the Offer, Somerset Entertainment and its affiliates, including any projections or forecasts provided to TD Securities, were prepared on a basis consistent in all material respects with the accounting policies applied in the most recent audited consolidated financial statements of Somerset Entertainment; (x) there are no agreements, undertakings, commitments or understanding (whether written or oral, formal or informal) relating to the Offer, except as have been disclosed in complete detail to TD Securities; (xi) the contents of any and all documents prepared in connection with the Offer for filing with regulatory authorities or delivery or communication to securityholders of Somerset Entertainment (collectively, the “Disclosure Documents”) have been, are and will be true, complete and correct in all material respects and have not and will not contain any misrepresentation (as defined in the Securities Act) and the Disclosure Documents have complied, comply and will comply with all requirements under applicable laws; (xii) Somerset Entertainment has complied in all material respects with the Engagement Agreement, including the terms and conditions of Schedule B thereof; (xiii) to the best of their knowledge, information and belief after due inquiry, there is no plan or proposal for any material change (as defined in the Securities Act) in the affairs of Somerset Entertainment which have not been disclosed to TD Securities.

In preparing the Fairness Opinion, TD Securities has made several assumptions, including that all final versions of all agreements and documents to be executed and delivered in respect of or in connection with the Offer will conform in all material respects to the drafts provided to TD Securities, that all conditions precedent to be satisfied to complete the Offer can be satisfied, that all approvals, authorizations, consents, permissions, exemptions or orders of relevant regulatory authorities required in respect of or in connection with the Offer will be obtained, without adverse condition or qualification, that all steps or procedures being followed to implement the Offer are valid and effective, that all required documents (including the Circular) will be distributed to Unitholders in accordance with all applicable laws, and that the disclosure in such documents will be accurate in all material respects and will comply, in all material respects, with the requirements of all applicable laws. In its analysis in connection with the preparation of the Fairness Opinion, TD Securities made numerous assumptions with respect to industry performance, general business and economic conditions, and other matters, many of which are beyond the control of TD Securities or the Fund. The Fairness Opinion is conditional on all such assumptions being correct.

The Fairness Opinion has been provided for the use of the Board and the Special Committee and is not intended to be, and does not constitute, a recommendation that Unitholders tender or not tender their Units to the Offer. The Fairness Opinion does not address the relative merits of the Offer as compared to other transactions or business strategies that might be available to the Fund, nor does it address the underlying business decision to implement the Offer. In considering fairness, from a financial point of view, TD Securities considered the Cash Alternative made available under the Offer from the perspective of Unitholders (other than the Fluid Related Parties) and did not consider the specific circumstances of any particular Unitholder, including with regard to tax considerations. **The Fairness Opinion does not address and should not be relied upon as addressing the Convertible Debenture Alternative or the Share Alternative made available under the Offer.** TD Securities expresses no opinion with respect to future trading prices of securities of the Fund. The Fairness Opinion is rendered as of October 12, 2009, on the basis of securities markets, economic and general business and financial conditions prevailing on that date and the condition and prospects, financial and otherwise, of the Fund and its respective subsidiaries and affiliates as reflected in the Information provided or otherwise available to TD Securities. Although TD Securities reserves the right to change or withdraw the Fairness Opinion in the event that there is any material change in any fact or matter affecting the Fairness Opinion, it disclaims any undertaking or obligation to advise any person of any such change that may come to its attention.

The Fairness Opinion may not be used by any person or relied upon by any person other than the Board and the Special Committee in connection with the Offer without the express prior written consent of TD Securities. Except

as contemplated herein, the Fairness Opinion is not to be reproduced, disseminated, quoted from or referred to (in whole or in part) without TD Securities' prior written consent.

The preparation of a fairness opinion is a complex process and is not necessarily amenable to partial analysis or summary description. TD Securities believes that its analyses must be considered as a whole and that selecting portions of the analyses or the factors considered by it, without considering all factors and analyses together, could create an incomplete view of the process underlying the Fairness Opinion. Accordingly, this Fairness Opinion should be read in its entirety.

#### CONCLUSION

Based upon and subject to the foregoing and such factors that TD Securities considered relevant, TD Securities is of the opinion that, as of October 12, 2009, the consideration to be received under the Cash Alternative pursuant to the Offer is fair, from a financial point of view, to Unitholders (other than the Fluid Related Parties).

Yours very truly,

A handwritten signature in cursive script that reads "TD Securities Inc." followed by a period.

**TD SECURITIES INC.**

**The Depositary for the Offer is:  
Computershare Investor Services Inc.**



**By Mail:**

**P.O. Box 7021  
31 Adelaide Street East  
Toronto, Ontario  
M5C 3H2  
Attention: Corporate Actions**

**By Registered Mail, by Hand or by Courier:**

**100 University Avenue  
9th Floor  
Toronto, Ontario  
M5J 2Y1  
Attention: Corporate Actions**

**Toll Free (North America): 1-800-564-6253  
Overseas: 1-514-982-7555  
Facsimile: 1-905-771-4082  
email: [corporateactions@computershare.com](mailto:corporateactions@computershare.com)**

**Any questions and requests for assistance may be directed by holders of Units to the Depositary. Requests for additional copies of this Offer and Circular may be directed to the Depositary. Unitholders may also contact their brokers, dealers, commercial banks, trust companies or other nominees for assistance concerning the Offer.**