

AMENDED AND RESTATED MOVABLE HYPOTHEC AGREEMENT

BETWEEN

HOMBURG CANADA REAL ESTATE INVESTMENT TRUST

AND

HOMCO REALTY FUND (199) LIMITED PARTNERSHIP

AUGUST 18, 2011

AMENDED AND RESTATED MOVABLE HYPOTHEC AGREEMENT

THIS AGREEMENT is made this Eighteenth (18th) day of August, two thousand eleven (2011).

BETWEEN: **HOMBURG CANADA REAL ESTATE INVESTMENT TRUST**, a real estate investment trust established under the laws of Quebec, having its head office at 1 Place Alexis Nihon, Suite 1010, in the City of Montreal, Province of Quebec, H3Z 3B8, herein acting and represented by ;

(the “**Secured Party**”)

PARTY OF THE FIRST PART

AND: **HOMCO REALTY FUND (199) LIMITED PARTNERSHIP**, a limited partnership constituted under the laws of Nova Scotia, having its principal establishment at 32 Akerley Boulevard, Dartmouth, Nova Scotia, B3B 1N1, herein acting and represented by its general partner, **HII GP INC.**, a corporation incorporated under the *Companies Act* (Nova Scotia), R.S.N.S. 1989, c. 81, having its registered office at 900-1959 Upper Water Street, in the City of Halifax, Province of Nova Scotia, B3J 3N2, herein acting and represented by Jan Schöningh, its President and CEO, and by James F. Miles, its Vice President and CFO hereunto duly authorized for the purposes hereof in virtue of a resolution dated May 25, 2010;

(the “**Grantor**”)

PARTY OF THE SECOND PART

WHEREAS the Grantor and the Secured Party entered into a movable hypothec agreement (as in effect as of the date hereof, the “**Original Movable Hypothec Agreement**”) made as of May 25, 2010 evidencing the pledge by the Grantor of the Charged Property (as defined therein) in favour of the Secured Party to secure the payment and performance of the Obligations (as defined therein), the whole in accordance with the terms thereof.

WHEREAS, on August 9, 2011, HII GP Inc. replaced Homburg L.P. Management Inc. as the general partner of the Grantor.

WHEREAS the Grantor and the Secured Party wish to amend and restate the Original Movable Hypothec Agreement on and subject to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto have agreed as follows:

1. INTERPRETATION

1.1 Definitions

As used herein, the following terms have the following meanings unless there is something in the subject matter or context inconsistent therewith:

“**Applicable Laws**” means, in respect of any Person, property, transaction or event, all applicable federal, provincial or municipal laws, statutes, ordinances, decrees, orders in council, regulations, rules, by-laws, policies and guidelines, orders, permits, licenses, authorizations, approvals, orders of governmental bodies and all applicable orders and decrees of courts and arbitrators having force of law.

“**Charged Property**” means the HII Head Lease Charged Property and the HII Remediation Cost Charged Property.

“**Civil Code**” means the *Civil Code of Quebec*, as same may be amended or replaced from time to time.

“**Custodian**” has the meaning given thereto in Section 3.2 hereof.

“**Distributions**” has the meaning given thereto in Section 3.3 hereof.

“**Event of Default**” means the occurrence of any of the following events:

- (a) in respect of the hypothec and pledge evidenced by Section 2.1 only, the occurrence of a default by Homburg Invest Inc. under any of the Head Leases, provided all applicable notices and cure periods have been given and/or have expired;
- (b) in respect of the hypothec and pledge evidenced by Section 2.2 only, the failure by Homburg Invest Inc. to pay, when due, the Remediation Cost (as such term is defined in the Master Purchase Agreement), provided all applicable notices and cure periods have been given and/or have expired;
- (c) in respect of the hypothec and pledge evidenced by Section 2.2 only, a breach of the covenant at Section 5.1(d) of the Master Purchase Agreement by any of Homburg Invest Inc., Homco Realty Fund (12) Limited Partnership, Homco Realty Fund (190) Limited Partnership, Homco Realty Fund (191) Limited Partnership or the Grantor;
- (d) the Grantor is wound up, dissolved or liquidated under any law or otherwise has its existence terminated or passes any resolution or becomes subject to any order in connection with any of the above;
- (e) the Grantor makes a general assignment for the benefit of its creditors, acknowledges its insolvency or is declared or becomes bankrupt or insolvent;

- (f) the Grantor commits an act of bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) or any similar law of any jurisdiction;
- (g) any filing of a proposal or notice of intention to make a proposal is made or a notice of intention to enforce security is issued in respect of the Grantor under the *Bankruptcy and Insolvency Act* (Canada) or any similar law of any jurisdiction;
- (h) any filing is made or a proceeding is commenced in respect of the Grantor (whether voluntary or involuntary) seeking any stay of proceedings, protection from creditors, moratorium, reorganization, arrangement, composition, re-adjustment, or any other relief under any present or future law of any jurisdiction relative to bankruptcy, insolvency, reorganization or other relief for debtors or affecting creditors' rights, including the *Companies' Creditors Arrangement Act* (Canada); or
- (i) any trustee in bankruptcy, interim receiver, receiver, receiver and manager, agent, custodian, sequestrator, administrator, monitor or liquidator or any other Person with similar powers shall be appointed in respect of the Grantor, or all or any part of the Charged Property or substantially all of its assets, or any filing is made or proceeding is commenced in respect of the Grantor seeking the entry of an order for the appointment or relief in respect of any of the above.

“Grantor” means Homco Realty Fund (199) Limited Partnership, the party of the second part, and includes his successors and permitted assigns.

“Head Leases” means each of:

- (a) the Fitzroy Building head lease dated May 25, 2010 between Fitzroy Development Inc. and Homburg Invest Inc., as amended, supplemented, replaced or otherwise modified from time to time;
- (b) the Centre Court head lease dated May 25, 2010 between Dyne Holdings Limited and Homburg Invest Inc. as amended, supplemented, replaced or otherwise modified from time to time; and
- (c) the CN head lease dated May 25, 2010 between Homco Realty Fund (130) Limited Partnership and Homburg Invest Inc. as amended, supplemented, replaced or otherwise modified from time to time.

“HII Head Lease Charged Property” means the HII Head Lease Units and all Proceeds therefrom.

“HII Head Lease Obligations” means the obligations of Homburg Invest Inc. under the Head Leases.

“**HII Head Lease Units**” means the units of the Issuer described in Schedule “A” hereto, together with any properties, units, rights, instruments, options or any other instrument or title issued or received in substitution, renewal, addition or replacement of any of the HII Head Lease Units or issued or received on the purchase, redemption, conversion, cancellation or transformation of any of the HII Head Lease Units.

“**HII Remediation Cost Charged Property**” means the HII Remediation Cost Units and all Proceeds therefrom.

“**HII Remediation Cost Obligations**” means the obligations of Homburg Invest Inc. to pay, pursuant to the terms and conditions of the Master Purchase Agreement, any and all Remediation Costs (as such term is defined in the Master Purchase Agreement).

“**HII Remediation Cost Units**” means the units of the Issuer described in Schedule “B” hereto, together with any properties, units, rights, instruments, options or any other instrument or title issued or received in substitution, renewal, addition or replacement of any of the HII Remediation Cost Units or issued or received on the purchase, redemption, conversion, cancellation or transformation of any of the HII Remediation Cost Units.

“**HII Tax Indemnity Obligations**” means the obligations of Homburg Invest Inc. under Section 5.1(d) of the Master Purchase Agreement.

“**Issuer**” means Homburg Canada Real Estate Investment Trust.

“**Lien**” means any hypothec, security interest, mortgage, pledge, prior claim, lien, transfer, assignment or encumbrance of whatever kind or nature that secures the payment of any indebtedness or liability or the observance or performance of any obligation, including any title retention agreement.

“**Master Purchase Agreement**” means the Homburg Invest master purchase agreement dated May 25, 2010 among Homco Realty Fund (12) Limited Partnership, Homco Realty Fund (190) Limited Partnership, Homco Realty Fund (191) Limited Partnership, the Grantor, the Secured Party and Homburg Invest Inc.

“**Obligations**” means the HII Head Lease Obligations, the HII Remediation Cost Obligations and the HII Tax Indemnity Obligations.

“**Person**” means any corporation, natural person, firm, joint venture, partnership, trust, unincorporated organization, government or any department, agency or instrumentality of any government.

“**Prime Rate**” means for any day, the annual rate of interest which is equal to the rate of interest in effect on such day, expressed as an annual rate, quoted or announced on such day by The Toronto-Dominion Bank as being its reference

rate of interest then in effect for determining interest rates on Canadian dollar commercial demand loans made by it in Canada to its prime commercial borrowers; the parties hereto acknowledge that the “Prime Rate” is a reference rate and is not necessarily intended to be the lowest or best rate of interest charged to other banks or to customers in connection with extensions of credit.

“**Proceeds**” means, with respect to any units of the Issuer, the universality consisting of all identifiable or traceable movable property, present or future, in any form derived directly or indirectly from any dealing with such units or the proceeds therefrom, including:

- (a) all rights attached to such units and all fruits and revenues arising therefrom, including capital or income forming part of the assets of the Issuer, and interest thereon, accretions thereto and any other proceeds thereof, including proceeds of redemption; and
- (b) the proceeds of any sale, assignment or other disposition of such units, any claim resulting from such a sale, assignment or other disposition, as well as any property acquired in replacement thereof (it being understood that this Section shall not be interpreted as permitting the Grantor to dispose of the property hypothecated herein).

“**Secured Party**” means Homburg Canada Real Estate Investment Trust, the party of the first part, and includes its successors and assigns.

“**STA**” means the *Act respecting the transfer of securities and the establishment of security entitlements* (Quebec), as same may be amended or replaced from time to time.

“**this Agreement**”, “**these presents**” and similar expressions refer to the Original Movable Hypothec Agreement, as amended and restated pursuant to this Amended and Restated Movable Hypothec Agreement including all schedules, amendments, supplements, extensions, renewals, replacements or restatements from time to time, and references to “Articles” or “Sections” mean the specified Article or Section of this Agreement.

“**Units**” means the HII Remediation Cost Units and the HII Head Lease Units.

1.2 Severability

If any one or more of the provisions contained in this Agreement for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Secured Party, be severable from and shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

1.3 Interpretation and Headings

The Grantor acknowledges that this Agreement is the result of negotiations between the parties and shall not be construed in favour of or against any party by reason of the extent to which any party or its legal counsel participated in its preparation or negotiation. The words “hereto”, “herein”, “hereof”, “hereby”, “hereunder” and similar expressions refer to the whole of this Agreement including, without limitation, the additional provisions, and not to any particular Section or other portion thereof or hereof and extend to and include any and every document supplemental or ancillary hereto or in implementation hereof. Words in the singular include the plural and words in the plural include the singular. Words importing the masculine gender include the feminine and neuter genders where the context so requires. Words importing the neuter gender include the masculine and feminine genders where the context so requires. The headings do not form part of this Agreement and have been inserted for convenience of reference only. Any reference to “including” shall mean “including without limitation” whether or not expressly provided. If more than one Person is named as, or otherwise becomes liable for or assumes the obligations and liabilities of the Grantor, then all such Persons shall be solidarily liable for all such obligations and liabilities.

1.4 Enurement

This Agreement shall enure to the benefit of and be binding upon the heirs, liquidators, executors, administrators, successors (including any successor by reason of amalgamation) and permitted assigns of the parties hereto.

1.5 Currency

All dollar references in this Agreement are expressed in Canadian Dollars.

2. HYPOTHECS

2.1 HII Head Lease and HII Tax Indemnity Movable Hypothec and Pledge

To secure the full and timely payment and performance of the HII Head Lease Obligations and the HII Tax Indemnity Obligations, the Grantor hereby hypothecates and pledges the HII Head Lease Charged Property in favour of the Secured Party for the principal sum of SIX MILLION DOLLARS (\$6,000,000), together with interest thereon from the date hereof at the rate of twenty-five percent (25%) per annum, calculated semi-annually and not in advance.

The Secured Party and the Grantor hereby acknowledge that the HII Head Lease Units described in Schedule “A” hereto, as security for the full and timely payment and performance of the HII Head Lease Obligations and the HII Tax Indemnity Obligations (in respect of which he hereby obligates himself to the Secured Party to the extent of the HII Head Lease Pledge Units), have been duly endorsed in blank for transfer and have been delivered in the City of Montreal, Province of Quebec to and are now in the possession of the Secured Party or the

Custodian, that same shall remain in the possession of the Secured Party or the Custodian and that the Secured Party or Custodian shall hold and keep same in accordance with the provisions of this Agreement.

2.2 HII Remediation Cost and HII Tax Indemnity Movable Hypothec and Pledge

To secure the full and timely payment and performance of the HII Remediation Cost Obligations and the HII Tax Indemnity Obligations, the Grantor hereby hypothecates and pledges the HII Remediation Cost Charged Property in favour of the Secured Party for the principal sum of FOUR MILLION DOLLARS (\$4,000,000), together with interest thereon from the date hereof at the rate of twenty-five percent (25%) per annum, calculated semi-annually and not in advance.

The Secured Party and the Grantor hereby acknowledge that the HII Remediation Cost Units described in Schedule "B" hereto, as security for the full and timely payment and performance of the HII Remediation Cost Obligations and the HII Tax Indemnity Obligations (in respect of which he hereby obligates himself to the Secured Party to the extent of the HII Remediation Cost Units), have been duly endorsed in blank for transfer and have been delivered in the City of Montreal, Province of Quebec to and are now in the possession of the Secured Party or the Custodian, that same shall remain in the possession of the Secured Party or the Custodian and that the Secured Party or the Custodian shall hold and keep same in accordance with the provisions of this Agreement.

3. ADDITIONAL PROVISIONS WITH RESPECT TO THE HYPOTHEC ON UNITS

3.1 Delivery of Certificated Units

All certificates or instruments representing or evidencing the Units shall be delivered to and held by the Secured Party or the Custodian pursuant hereto and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed undated instruments of transfer or assignment in blank, all in form and substance satisfactory to the Secured Party. The foregoing delivery shall also constitute a valid pledge in favour of the Secured Party of the Units represented by such certificates or instruments.

3.2 Charged Property held by the Custodian

The parties hereto agree that (i) the Secured Party may, at any time from the date of execution of the Original Movable Hypothec Agreement, hold the Charged Property or any part thereof through a third person, as contemplated by Article 2705 of the Civil Code, including without limitation Osler, Hoskin & Harcourt LLP and any other person as indicated to the Grantor in writing by the Secured Party from time to time (the "**Custodian**"), without any further consent being required from the Grantor, and (ii) each such third person designated pursuant to

Article 2705 of the Civil Code may, at any time, and shall, when so requested in writing by the Secured Party, surrender the Charged Property to the Secured Party itself or to any other third person designated in writing by the Secured Party, provided that such written designation shall be communicated to the Grantor no later than ten (10) business days thereafter, to continue to hold the Charged Property pursuant to this Agreement, without any further consent being required from the Grantor.

3.3 Distributions and Other Matters

The Secured Party hereby authorizes the Grantor to manage and collect the dividends, cash, options, warrants, rights, instruments, distributions, returns of capital or principal, income, interest, profits and other property (debt or equity), proceeds, fruits and revenues (the “**Distributions**”) from the Units comprising the Charged Property, save and except as otherwise provided under the terms of any other written agreement between the Grantor and the Secured Party. Such authorization may nevertheless be withdrawn upon the occurrence and during the continuance of an Event of Default, whereupon the Secured Party shall be free to collect such Distributions and apply such sums (net of all collection costs) in such manner as the Secured Party shall deem appropriate, without any interference or consent on the part of the Grantor and without being bound (to the fullest extent permitted by Applicable Laws) by the rules respecting the administration of the property of others.

3.4 Collection of Distributions by Grantor

Any amount received by the Grantor with respect to the said Distributions after a withdrawal of authorization as aforesaid shall be deemed so received as mandatary or depositary of the Secured Party and shall forthwith be remitted to the Secured Party without demand or notice, the whole without prejudice to the recourses of the Secured Party against the third party debtors.

3.5 Voting - Interpretation

As used in this Section 3, “voting rights” includes the right to attend and vote at any meeting, to sign a resolution in writing in lieu of a meeting or of a resolution passed at a meeting and the right to nominate and direct a proxy.

3.6 Grantor to Exercise Voting Rights, Etc.

Until the occurrence of an Event of Default which is continuing, and subject to the terms of this Agreement, the Grantor may:

- (a) exercise any and all voting rights and all rights of conversion, exchange or retraction or other similar rights with respect to any of the Units and to give consents, waivers, directions, notices and ratifications and to take any other action the Grantor is permitted to take in respect of such Units,

provided that any property arising from any such conversion, exchange or retraction shall form part of the Charged Property; and

- (b) receive any and all notices or other communications delivered in respect of the Units.

3.7 Secured Party to exercise voting rights

- (a) The Grantor hereby grants to the Secured Party an irrevocable proxy to exercise all voting rights and corporate rights relating to the Units which proxy shall be effective upon the occurrence and during the continuance of an Event of Default. After the occurrence and during the continuance of an Event of Default and upon request of the Secured Party, the Grantor hereby agrees to deliver to the Secured Party such further evidence of such irrevocable proxy or such further irrevocable proxies to vote the Units as the Secured Party may request. In addition, after the occurrence and during the continuance of an Event of Default, the Grantor agrees to deliver to the Secured Party copy of any and all notices and other communications delivered in respect of the Units.
- (b) Notwithstanding any other provisions of Section 3.6 and this Section 3.7, no votes shall be cast or consent, waiver, notice or ratification given or action taken which would:
 - (i) be prejudicial to the Secured Party's hypothecs created hereunder;
 - (ii) impair or reduce the value of or restrict the transferability of the Units; or
 - (iii) be inconsistent with or violate any provisions of this Agreement and/or any other written agreement between the Grantor and the Secured Party.

3.8 Delivery and Control

Notwithstanding any physical delivery of the Units described in Schedules "A" and "B" hereto, prior to the occurrence of an Event of Default which is continuing, Sections 3.6 and 3.7 shall continue to apply and upon such physical delivery the Secured Party shall provide the Grantor with such proxies and other written authorizations as may reasonably be requested by the Grantor to enable the Grantor to exercise the rights and take the actions described in Sections 3.6 and 3.7.

3.9 Rights and Duties of the Secured Party

Upon the occurrence of an Event of Default which is continuing, all of the Grantor's rights pursuant to Sections 3.2, 3.6 and 3.7 shall cease and the Secured Party may enforce any of the Grantor's rights with respect to the Units. Upon an

Event of Default which is continuing, the Grantor shall and shall be deemed to hold all Proceeds and Units which are not under the control of the Secured Party as mandatary or depositary, separate and apart from other property and assets of the Grantor, for the benefit of the Secured Party until all Obligations owing to the Secured Party have been paid in full, and shall forthwith transfer control of such Proceeds and Units to the Secured Party, or its nominee or agent, as the Secured Party may direct. Subject to Applicable Laws, the Secured Party and its nominee or agent shall act with the same prudence and diligence in the custody and preservation of the Units as it would with its own property. The Secured Party or its agent or nominee may take no steps to defend or preserve the Grantor's rights against the claims or demands of others.

4. REPRESENTATIONS AND WARRANTIES

4.1 Valid Hypothecs

The hypothecs created or evidenced hereunder rank prior to all other Liens on the Charged Property, including liens that would be prior to the hypothecs in favour of the Secured Party as a matter of law, and are enforceable as such as against any and all creditors of the Grantor.

4.2 Units

The Grantor hereby represents and warrants to and in favour of the Secured Party that:

- (a) Schedule "A" hereof sets forth the HII Head Lease Units owned by the Grantor in the Issuer and that the Grantor is the registered holder of record of the HII Head Lease Units listed in such Schedule "A" by good and valid title, free and clear of all Liens, subject only to the hypothecs created by this Agreement;
- (b) Schedule "B" hereof sets forth the HII Remediation Cost Units owned by the Grantor in the Issuer and that the Grantor is the registered holder of record of the HII Remediation Cost Units listed in such Schedule "B" by good and valid title, free and clear of all Liens, subject only to the hypothecs created by this Agreement;
- (c) all of the Units are certificated;
- (d) all Units currently held by the Grantor are "securities" within the meaning and for the purposes of the STA;
- (e) he has full power, authority and legal right to hypothecate and pledge all the Units listed in Schedules "A" and "B";
- (f) all of the Units listed in Schedules "A" and "B" have been duly and validly issued, are fully paid and non-assessable, are not subject to any

options to purchase, warrants or similar rights related thereto and are in full force and effect;

- (g) it has not ceded, assigned, transferred or set over his rights, interest and benefits in the Units listed in Schedules "A" and "B", if any, to any Person nor has he performed any act or executed any other instrument which might prevent the Secured Party from exercising its rights under this Agreement in respect of the hypothecated Units or which would limit the Secured Party in any such rights; and
- (h) none of the rights of the Grantor arising as the owner and holder of record of the Units held by the Grantor have been surrendered, cancelled or terminated.

4.3 Default

The Grantor is not in default under this Agreement.

All representations and warranties of the Grantor made in this Agreement are material, shall survive and shall not merge upon the execution and delivery of this Agreement and shall continue in full force and effect. The Secured Party shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made or lack thereof by or on behalf of the Secured Party at any time.

5. COVENANTS

The Grantor hereby covenants:

5.1 Information

To give notice in writing to the Secured Party:

- (a) of any change whatsoever in any representations and warranties hereinabove mentioned in Section 4; and
- (b) of any claim or Lien made or asserted against any of the Charged Property.

5.2 Delivery of Documents

To deliver to the Secured Party or the Custodian as soon as practicable upon request:

- (a) any certificated Units which have not been delivered to the Secured Party on the date hereof, and upon such delivery, where applicable, duly endorse the same for transfer in blank or as the Secured Party may reasonably direct;

- (b) such information concerning the Charged Property and the Grantor as the Secured Party may reasonably request; and
- (c) any uncertificated Units, and accomplish further acts and actions necessary for delivery of such uncertificated Units to the Secured Party in accordance with the STA.

5.3 Distribution and Payments Upon Default

Upon the occurrence of an Event of Default which is continuing, that any sums paid in respect of the Units upon the liquidation or dissolution of the Issuer shall forthwith be paid to the Secured Party to be held by it as part of the Units. Upon the occurrence of an Event of Default which is continuing, any distribution of capital made in respect of the Units or any property distributed with respect to the Units pursuant to the recapitalization, reclassification or reorganization of the capital of the Issuer, and the property so distributed shall be delivered to the Secured Party or its agent or nominee as the Secured Party may direct to be held by it as part of the Units. Upon the occurrence of an Event of Default which is continuing, if any money or property paid or distributed in respect of the Units shall be received by the Grantor, the Grantor shall, until such money or property is paid or delivered to the Secured Party, hold the money or property as mandatory or depositary for the Secured Party, segregated from other funds of the Grantor, as part of the Units.

5.4 Defend

To defend the Secured Party's hypothecs in the Units against any and all claims, demands or Liens including any adverse claim as defined in the STA, and against any and all such suits, actions or proceedings.

5.5 No Other Grant of Hypothec

Not to grant a hypothec or other Lien on or with respect to any of the Charged Property to any Person other than the Secured Party.

5.6 No Transfer

Not to sell, dispose of, assign, convey or otherwise transfer any of the Charged Property, or any rights thereunder.

5.7 Change of Law governing the Units

To forthwith notify the Secured Party of any change of jurisdiction of the Issuer, or any change in the agreements or documents governing the Units.

5.8 Location of Charged Property

Not to change the location of the Charged Property to a location outside of the Province of Quebec.

6. REMEDIES

6.1 Enforcement

Upon the occurrence and during the continuance of an Event of Default, all the Secured Party's rights and remedies under this Agreement and otherwise pursuant to Applicable Laws shall immediately become enforceable and the Secured Party shall, in addition to any other rights, recourses and remedies it has, forthwith be entitled to exercise any and all hypothecary rights prescribed by the Civil Code, subject to the provisions hereof.

6.2 Agent

The Secured Party may appoint any one or more agents who shall be entitled to perform the powers vested in the Secured Party pursuant to this Agreement and under the Applicable Laws. Upon the appointment of an agent or agents from time to time, the following provisions shall apply:

- (a) every such agent shall be the irrevocable agent and mandatary of the Grantor for the exercise of the rights, recourses and remedies available to the Secured Party and which are performed by such agent;
- (b) every such agent, in carrying out the duties delegated to it by the Secured Party, shall be entitled to exercise all of the same rights, powers and discretions available to the Secured Party hereunder or pursuant to Applicable Laws in respect of such matters;
- (c) the agent shall be entitled to deduct reasonable remuneration out of the receipts from any part of the Charged Property;
- (d) every such agent shall, so far as concerns responsibility for his acts or omissions, be deemed the agent and mandatary of, or employed or engaged by, the Grantor and in no event the agent, mandatary or employee of the Secured Party; and
- (e) the appointment of every such agent by the Secured Party shall not incur or create any liability on the part of the Secured Party to the agent in any respect and such appointment or anything which may be done by any such agent or the removal of any agent or termination of any such appointment or engagement shall not have the effect of creating any liability of any nature whatsoever of any such agent towards the Grantor, except in case of gross or intentional fault.

6.3 Secured Party's Right to Perform Obligations

If the Grantor shall fail, refuse or neglect to make any payment or perform any act required hereunder, then while any Event of Default exists and is continuing, and without notice to or demand upon the Grantor and without waiving or releasing any other right, remedy or recourse the Secured Party may have because of such Event of Default, the Secured Party may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of the Grantor, and shall have the right to take all such action and undertake such expenditures as it may deem necessary or appropriate. If the Secured Party shall elect to pay any sum due with reference to the Charged Property, the Secured Party may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created hereunder, the Secured Party shall not be bound to inquire into the validity of any apparent or threatened adverse title, hypothec, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same.

6.4 Mise en demeure

Except as otherwise expressly herein provided, no notice or mise en demeure of any kind shall be required to be given to the Grantor by the Secured Party for the purpose of putting the Grantor in default, the Grantor being in default by the mere lapse of time allowed for the performance of an obligation or by the mere occurrence of an event constituting an Event of Default hereunder.

6.5 Exercise of Recourses

In exercising any of the rights, recourses or remedies available hereunder, the Secured Party may at its discretion, in respect of all or any part of the Charged Property or any other security held by the Secured Party, exercise such rights, recourses and remedies as are available hereunder or under any Applicable Law, as it elects to exercise, without prejudicing the other rights, recourses and remedies available to the Secured Party in respect of all or part of the Charged Property or any other security held by the Secured Party. The Secured Party may exercise any of such rights, recourses and remedies in respect of all or any part of the Charged Property (or any other security held by the Secured Party), simultaneously or successively. It is further understood that the Secured Party shall be entitled to exercise and enforce all of the rights and remedies available to it, free from any control of the Grantor provided, however, that the Secured Party shall not be bound to realize any specific security nor exercise any right or remedy as aforesaid and shall not be liable for any loss which may be occasioned by any failure to do so.

6.6 Extension of Time and Waiver

Neither any extension of time given by the Secured Party to the Grantor or any Person claiming through the Grantor, nor any amendment to this Agreement or other dealing by the Secured Party with a subsequent owner of the Charged Property will in any way affect or prejudice the rights of the Secured Party against the Grantor or any other Person or Persons liable for payment of the Obligations. The Secured Party may waive any Event of Default in its sole discretion. No waiver will extend to a subsequent Event of Default, whether or not such subsequent Event of Default is the same as or similar to the Event of Default waived, and no act or omission by the Secured Party will extend to, or affect, any subsequent Event of Default or the rights of the Secured Party arising from such Event of Default. Any such waiver must be in writing and signed by the Secured Party. No failure on the part of the Secured Party or the Grantor to exercise, and no delay by the Secured Party or the Grantor in exercising, any right pursuant to this Agreement will operate as a waiver of such right. No single or partial exercise of any such right will preclude any other or further exercise of such right.

6.7 Additional Provisions Relating to Units

Upon the occurrence of an Event of Default which is continuing, subject to the Grantor's right to receive a reasonable prior notice of the Secured Party's exercise of its recourse, the Secured Party may sell the Units or otherwise dispose of them without having to give a prior notice, obtain their surrender or observe the time limits prescribed by Title Three of Book Six of the Civil Code.

The Secured Party may not grant a movable hypothec contemplated under Article 2714.6 of the Civil Code in favour of a third person on the Units hypothecated hereunder.

7. DISCHARGE OF SECURITY AND SUBSTITUTION OF CHARGED PROPERTY

7.1 Discharge of HII Head Leases Units

Unless any Event of Default has occurred and is continuing, the HII Head Leases Units and all Proceeds therefrom shall be released from the hypothec and pledge evidenced by Section 2.1 as follows:

- (a) one fifth (1/5) of the HII Head Leases Units and all Proceeds therefrom shall be released on the first anniversary of the Original Movable Hypothec Agreement;
- (b) one fifth (1/5) of the HII Head Leases Units and all Proceeds therefrom shall be released on the second anniversary of the Original Movable Hypothec Agreement;

- (c) one fifth (1/5) of the HII Head Leases Units and all Proceeds therefrom shall be released on the third anniversary of the Original Movable Hypothec Agreement;
- (d) one fifth (1/5) of the HII Head Leases Units and all Proceeds therefrom shall be released at the latest of the fourth anniversary of the Original Movable Hypothec Agreement and the date on which all of the HII Tax Indemnity Obligations have expired and/or have been fully satisfied and discharged; and
- (e) one fifth (1/5) of the HII Head Leases Units and all Proceeds therefrom shall be released at the latest of the fifth anniversary of the Original Movable Hypothec Agreement and the date on which all of the HII Tax Indemnity Obligations have expired and/or have been fully satisfied and discharged.

7.2 Discharge of HII Remediation Cost Units

Unless any Event of Default has occurred and is continuing, once all HII Remediation Cost Obligations and all HII Tax Indemnity Obligations have expired and/or have been fully satisfied and discharged, the HII Remediation Cost Units and all Proceeds therefrom shall be released from the hypothec and pledge evidenced by Section 2.2.

7.3 Substitution of Charged Property

Unless any Event of Default has occurred and is continuing, the Grantor may elect to substitute the Charged Property, or any part thereof, for marketable debt securities with a term not greater than five years bearing a rating issued by an internationally recognized rating agency of at least A (high), or equivalent, the value of which shall be at least equivalent to the value of the Obligations secured by such Charged Property. The property so substituted shall no longer form part of the Charged Property.

8. MISCELLANEOUS

8.1 Separate Security

This Agreement and the hypothecs created herein, are and shall be in addition to and not in substitution for, any other security held by the Secured Party, for the fulfilment of the Obligations and shall thus not operate as a novation of any Obligation of the Grantor towards the Secured Party.

8.2 Notice

Any notice or other communication, including a demand or a direction, required or permitted to be given hereunder shall be in writing and be well and sufficiently given if delivered personally or sent by prepaid registered mail to its address or by facsimile to the number and to the attention of the person set forth below.

In the case of the Secured Party:

Homburg Canada Real Estate Investment Trust
1 Place Alexis Nihon
Suite 1010
Montreal, Quebec
H3Z 3B8

Attention: President
Facsimile N^o: (514) 841-9618

In the case of the Grantor:

Homco Realty Fund (199) Limited Partnership
900-1959 Upper Water Street
Halifax, Nova Scotia
B3J 3N2

Notwithstanding the foregoing, if the Civil Code requires that a notice or other communication be given in a specified manner, then any such notice or communication shall be given in such manner.

8.3 Limitation of Liability

The Secured Party shall only be bound to exercise reasonable prudence and diligence in the execution of its rights and performance of its obligations under the terms of this Agreement or pursuant to Applicable Laws and the Secured Party shall not be responsible for prejudice that may result from its fault or that of its agents or representatives, with the exception of its gross or intentional fault.

The Secured Party shall not be responsible in respect of any obligations undertaken in the exercise of its powers under the terms of this Agreement or under Applicable Laws, or by reason of any delay, omission or any other act made in good faith by the Secured Party or its representatives with the exception of obligations undertaken or acts made further to gross or intentional fault.

The Secured Party shall not be liable or accountable:

- (a) by reason of taking possession of all or any of the Charged Property, to account for anything except actual receipts, or for any loss on realization or any act or omission for which a creditor might be liable; or
- (b) for any failure to (i) exercise or exhaust any of its rights and remedies, (ii) take possession of, seize, collect, realize, sell, lease or otherwise dispose of or obtain payment for the Charged Property, or (iii) protect the Charged Property from depreciating in value or becoming worthless, and shall not, in each case, be bound to institute proceedings for such purposes

or for the purpose of preserving any rights, remedies or powers of the Secured Party, the Grantor or any other Person in respect of same.

The Grantor releases and discharges the Secured Party and any agent appointed under Section 6.2 from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Grantor or any Person claiming through or under the Grantor by reason or as a result of anything done or not done by the Secured Party or any successor or assign claiming through or under the Secured Party or any such agent under the provisions of this Agreement unless such claim be the result of gross or intentional fault.

8.4 Further Assurances

The Grantor shall at all times at its expense do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement and to give the Secured Party valid hypothecs in the Charged Property, and shall provide such further documents or instruments required by the Secured Party as may be reasonably necessary or desirable (i) to effect the purpose of this Agreement and carry out its provisions, and (ii) for improving the granting, transferring, assigning, charging, setting over, assuring, confirming or rendering opposable of the hypothecs created hereunder and the priority accorded to it by Applicable Laws or under this Agreement.

The Grantor acknowledges that this Agreement has been prepared on the basis of Applicable Laws in effect on the date hereof, and that changes to the Applicable Laws may require the execution and delivery of different forms of documentation, and accordingly the Secured Party shall have the right (acting reasonably) to require that this Agreement be amended, supplemented or replaced (and the Grantor shall, or shall cause its applicable subsidiary to, duly authorize, execute and deliver to the Secured Party any such amendment, supplement or replacement reasonably requested by the Secured Party with respect to this Agreement) within 30 days of written request therefor (i) to reflect any change in Applicable Laws, whether arising as a result of statutory amendments, court decisions or otherwise; (ii) to facilitate the creation and registration of appropriate forms of security in applicable jurisdictions; or (iii) to confer upon the Secured Party security similar to the Liens created or intended to be created by this Agreement.

8.5 Amendments and Waivers

No amendment or waiver of any provision hereof shall be effective unless in writing and signed by the party against whom enforcement is sought.

8.6 Waivers

No course of dealing on the part of the Secured Party, its officers, employees, consultants or agents, nor any failure or delay by the Secured Party with respect to exercising any right, power or privilege of the Secured Party under any of the Security Documents, shall operate as a waiver thereof.

8.7 Payment to Third Parties

If the Secured Party is at any time or from time to time required to make a payment in connection with the security constituted by this Agreement, such payment and all reasonable costs of the Secured Party (including legal fees and other expenses) shall be immediately payable by the Grantor to the Secured Party and shall bear interest at Prime Rate plus 2%.

8.8 Indivisibility

Every divisible obligation in favour of the Secured Party arising out of this Agreement must be performed in its entirety by each heir or legal representative of any Person who is liable to the same extent as if it were indivisible.

8.9 Time

Time is and shall be of the essence in the performance of the parties' respective obligations.

8.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Quebec and the applicable laws of Canada and the Grantor and the Secured Party hereby irrevocably submit to the non-exclusive jurisdiction of the courts of Quebec.

8.11 Language

The parties hereto confirm that they have requested that this Agreement and all related documents be drafted in English. *Les parties aux présentes ont exigé que le présent acte et tous les documents connexes soient rédigés en anglais.*

9. EFFECT OF AMENDMENT AND RESTATEMENT

9.1 This Agreement amends and restates as of the date hereof the Original Movable Hypothec Agreement and does not in any way effect novation of the Obligations or the obligations of the Grantor or the Secured Party thereunder. The Grantor confirms that the hypothecs created under the Original Movable Hypothec Agreement remain in all respects in full force and effect.

10. SCHEDULES

10.1 Schedule "A"

The following is Schedule "A" referred to in this Agreement:

UNITS

- 120,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC4280443;
- 120,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC4280444;
- 120,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC4280445;
- 120,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC4280446;
- 120,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC4280447.

10.2 Schedule “B”

The following is Schedule “B” referred to in this Agreement:


UNITS

400,000 units of Homburg Canada Real Estate Investment Trust represented by certificate No. GC2360928.

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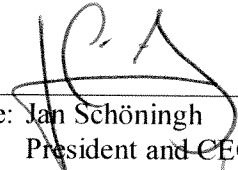
EXECUTED in the City of Montreal, Province of Quebec, on the date hereinabove set forth.


**HOMBURG CANADA REAL ESTATE
INVESTMENT TRUST**

By: 
Name: Gordon G. Lawlor
Title: Executive Vice President, Chief
Financial Officer and Secretary

EXECUTED in the City of Montreal, Province of Quebec, on the date hereinabove set forth.

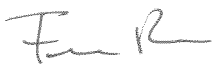
**HOMCO REALTY FUND (199)
LIMITED PARTNERSHIP, herein acting
and represented by its general partner,
HII GP INC.**

By: 
Name: Jan Schöningh
Title: President and CEO

By: 
Name: James F. Miles
Title: Vice President and CFO

As requested by the Grantor and the Secured Party, Osler, Hoskin & Harcourt LLP, in its capacity as third person designated pursuant to Article 2705 of the Civil Code and Custodian hereunder, without personal liability of any kind towards the Grantor or the Secured Party, hereby acknowledges having received a copy of this Agreement and hereby accepts receipt in the City of Montreal, Province of Quebec of the certificates representing the HII Head Lease Units listed in Schedule "A" hereto and the HII Remediation Cost Units listed in Schedule "B" hereto.

OSLER, HOSKIN & HARCOURT LLP

By: 
Name: Francois Paradis
Title: Partner