

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Commercial Division)  
(sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*, R.S.C.  
1985, c. C-36, as amended)

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No.: 500-11-041305-117

IN THE MATTER OF THE PLAN OF  
COMPROMISE OR ARRANGEMENT OF:

**Homburg Invest Inc.**  
**Homburg Shareco Inc.**  
**Churchill Estates Development Ltd.**  
**Inverness Estates Development Ltd.**  
**CP Development Ltd.**

**Debtors / Petitioners**

-and-

**Homco Realty Fund (52) Limited Partnership**  
**Homco Realty Fund (88) Limited Partnership**  
**Homco Realty Fund (89) Limited Partnership**  
**Homco Realty Fund (92) Limited Partnership**  
**Homco Realty Fund (94) Limited Partnership**  
**Homco Realty Fund (105) Limited Partnership**  
**Homco Realty Fund (121) Limited Partnership**  
**Homco Realty Fund (122) Limited Partnership**  
**Homco Realty Fund (142) Limited Partnership**  
**Homco Realty Fund (199) Limited Partnership**

**Mis-en-cause**

-and-

**Homburg Canada Incorporated**, a legal person  
duly constituted under the laws of Nova Scotia and  
having its registered office at 1741 Brunswick Street,  
Suite 600, in the City of Halifax, Province of Nova  
Scotia, B3J 3X8

**Homburg L.P. Management Incorporated**, a legal  
person duly constituted under the laws of Nova  
Scotia and having its registered office at 1741  
Brunswick Street, Suite 600, in the City of Halifax,  
Province of Nova Scotia, B3J 3X8

**Homburg Services Group (Europe) B.V.** , a legal  
entity, duly constituted pursuant to the laws of the  
Netherlands, and having its registered office at 36  
Beckerlinghstraat, 3762 EX Soest, Netherlands

**Homburg Real Estate Services B.V.**, a legal entity,  
duly constituted pursuant to the laws of the  
Netherlands, and having its registered office at 36

Beckeringhstraat, 3762 EX Soest, Netherlands

**Mis-en-cause**

-and-

**The Entities listed in Annex I**

**Mis-en-cause**

-and-

**HSBC Bank Canada**, a legal entity, duly constituted pursuant to the laws of Canada and having an office at 2001 McGill College Avenue, Suite 200, in the City of Montréal, Province of Québec, H3A 1G1

**Romspen Investment Corporation**, a legal entity, duly constituted pursuant to the laws of Ontario and having an office at 162 Cumberland Street, Suite 300, in the City of Toronto, Province of Ontario, M5R 3N5

**Nova Scotia Securities Commission**, a legal entity, duly constituted pursuant to the laws of Nova Scotia and having an office at 1809 Barrington Street, Suite 501, in the City of Halifax, Province of Nova Scotia, B3J 3K8

**Mis-en-cause**

-and-

**Samson Bélair/Deloitte & Touche Inc.**

**Monitor**

**MOTION FOR APPROVAL OF A PURCHASE AGREEMENT  
AND FOR ANCILLARY ORDERS**

*(Sections 11 and 36 of the Companies' Creditors Arrangement Act,  
R.S.C. 1985, c. C-36, as amended)*

**TO THE HONOURABLE JUSTICE LOUIS J. GOUIN OR TO ONE OF THE  
HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL  
DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE  
PETITIONERS RESPECTFULLY SUBMIT AS FOLLOWS:**

***Introduction***

1. On September 9, 2011, the Honourable Louis J. Gouin, S.C.J. issued an order (the "**Initial Order**") pursuant to the *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") in respect of Homburg Invest Inc. ("**HI**"), Homburg Shareco Inc., Churchill Estate Developments Ltd., Inverness Estates

Developments Ltd. and CP Developments Ltd. (collectively the “**Debtors**” or the “**Petitioners**”) as appears from the Court record;

2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (the “**Monitor**”) was appointed as Monitor of the Debtors and a stay of proceedings (the “**Stay of Proceedings**”) was issued from the date of the Initial Order until October 7, 2011;
3. On October 7, 2011, this Court issued an order (the “**First Extension Order**”) extending the Stay of Proceedings until December 9, 2011 (the “**Stay Period**”);
4. As appears from the Initial Order and the First Extension Order, the Stay of Proceedings was extended in favour of the following limited partnerships: Homco Realty Fund (52) Limited Partnership, Homco Realty Fund (88) Limited Partnership, Homco Realty Fund (89) Limited Partnership, Homco Realty Fund (92) Limited Partnership, Homco Realty Fund (94) Limited Partnership, Homco Realty Fund (105) Limited Partnership, Homco Realty Fund (121) Limited Partnership, Homco Realty Fund (122) Limited Partnership, Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership (“**Homco 199**”) (collectively the “**Applicant Partnerships**”);
5. On or about November 11, 2011, the Debtors served and filed a motion entitled Amended Motion to Amend Certain Limited Partnership Agreements and for Ancillary Relief (the “**GP Motion**”), which motion is still pending before this Honourable Court;
6. Petitioners respectfully request that this Honourable Court render the orders sought herein to, *inter alia*, approve the Purchase Agreement (as defined below) among the Petitioners HII, Churchill Estates Development Ltd., CP Development Ltd. and Inverness Estates Development Ltd. and certain of their affiliates (collectively the “**HII Group**”) and Homburg Canada Inc. (“**HCI**”) and certain of its affiliates (collectively the “**HCI Group**”), which will address the matters raised in the GP Motion as well as other outstanding matters between the HII Group and the HCI Group, and allow the Debtors to advance with their restructuring efforts, the whole with a view to formulating and proposing a viable plan of arrangement or compromise to their creditors;

## **Background**

### **A. Corporate Structure**

7. HII is an international real estate investment and development company which, directly or indirectly, owns a diversified portfolio of real estate assets;
8. The vast majority of HII’s real estate assets are held, directly or indirectly, through a number of limited partnerships formed under the laws of the Province of Nova Scotia (individually a “**Partnership**” and collectively the “**Partnerships**”);
9. A comprehensive list of all Partnerships is filed in support hereof as **Exhibit P-1**;
10. Homburg L.P. Management Incorporated (“**HLPM**”) is the general partner and HII is the sole limited partner of the Partnerships listed in Schedule B of Exhibit P-1. Schedule B-1 of Exhibit P-1 includes those Partnerships in respect of which an affiliate of HCI other

than HLPM is the general partner and/or of which HII is not the sole registered limited partner or a registered limited partner;

11. As appears from Exhibit P-1, HLPM is the general partner of all Partnerships save and except for Homco Realty Fund (185) Limited Partnership, Homco Realty Fund (190) Limited Partnership and Homco Realty Fund (191) Limited Partnership, in respect of which Homburg 185 LP Management Inc. ("**Homburg 185 Inc.**"), Homburg 190 LP Management Inc. ("**Homburg 190 Inc.**") and Homburg 191 LP Management Inc. ("**Homburg 191 Inc.**") are respectively the general partner (HLPM, Homburg 185 Inc., Homburg 190 Inc., Homburg 191 Inc. are collectively referred to as the "**General Partners**");
12. The General Partners are owned directly or indirectly by HCI, a company indirectly controlled by Richard Homburg ("**RH**");
13. The Second Report of the Monitor, dated October 5, 2011 (the "**Second Monitor's Report**"), provides significant additional detail in respect of the corporate structure of the HII Group and highlights that certain assets of certain Partnerships are held, directly or indirectly, in the name of HLPM or in the name of certain European Entities (as defined below), the whole as described in Schedules B-3 and B-4 of the Purchase Agreement (as defined below), and expresses some concern in this regard;
14. As detailed in the Amended Motion for an Initial Order filed by HII and the Debtors (the "**Amended Initial Motion**") in these CCAA proceedings, until July 29, 2011, in addition to controlling the General Partners, HCI provided property and asset management services to HII and the Partnerships in consideration for the payment of certain management fees pursuant to the terms of an Amended and Restated Master Property and Asset Management Agreement dated May 28, 2009 (the "**Management Agreement**");
15. On July 28, 2011, the Management Agreement was terminated;
16. Following the termination, HII internalized certain executive and administrative functions;
17. On August 29, 2011, HII was served with a Notice of Application and Motion Affidavit by HCI and related entities claiming \$27,343,930 in damages relating to the termination of the Management Agreement (the "**Termination Claim**");
18. Effective September 9, 2011, a short term management agreement was entered into with Homburg Real Estate Services B.V. ("**HRS BV**") to perform certain property and management services with respect to the Partnerships holding assets in the Netherlands and Germany (the "**European Agreement**");
19. Also effective on or about September 9, 2011, a short term management agreement was entered into with UAB Homburg Valda to perform certain property and management services with respect to the Partnerships holding assets in Lithuania, Latvia and Estonia;

**B. AFM**

20. Petitioners respectfully refer this Honourable Court to paragraphs 39 to 49 of the Amended Initial Motion and paragraphs 68 to 104 of the Second Monitor's Report to the Court, which paragraphs outline the matters relating to the Netherlands Authority for Financial Markets ("AFM");
21. As disclosed to the Court, both the Petitioners and the Monitor have dedicated significant time and resources to advising and pleading with the AFM in connection with the AFM's intention to revoke the license granted by the AFM to HII (the "**License**");
22. On November 23, 2011, the AFM rendered a decision pursuant to which it revoked the License. HII intends to vigorously contest the decision of the AFM and to pursue all avenues to reinstate the License in the context of its restructuring under the CCAA, for the benefit of all of its stakeholders;
23. Furthermore, notwithstanding the revocation of the License, HII continues to address the issues raised by the AFM, including in particular, the AFM's requirement that RH no longer exercise, directly or indirectly, any influence or control over HII or its assets;

***Purchase Agreement***

**A. Background**

24. Given the various matters outstanding between the HII Group and the HCI Group including:
  - (a) The issues surrounding the control of HII's business and assets, and the related concerns of both the AFM and the Monitor;
  - (b) Certain outstanding intercompany payables owing to the HCI Group (the "**Homburg Payables**");
  - (c) The potential liability of the HII Group with respect to the Termination Claim and matters relating to the Note (as defined below); and
  - (d) Certain risks and uncertainties inherent in the GP Motion, including potential adverse tax consequences;

HII, in collaboration with the Monitor, commenced negotiations with the HCI Group, with a view to arriving at an agreement which would resolve all outstanding matters;
25. Following several weeks of extensive negotiations and concerted efforts of all parties, the parties entered into a Purchase Agreement dated November 17, 2011, filed in support hereof as **Exhibit P-2** (the "**Purchase Agreement**");
26. The Purchase Agreement addresses the issues raised in the GP Motion while eliminating any uncertainties relating thereto and also resolves the other outstanding issues

highlighted above, which will allow HII to focus on and diligently pursue its restructuring process;

27. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement;

**B. Consideration Received by the HII Group**

28. The Purchase Agreement provides for, *inter alia*, the following:

- (a) The acquisition by HII Group or an entity designated by it (the “**Purchaser**”) of:
- (i) The property management business formerly conducted by the Vendor Group under the Management Agreement in respect of the Partnerships save and except as the Business relates to the Baltic Partnerships and the business activities conducted in Calgary, Alberta (the “**Business**”); and
  - (ii) The assets listed in Schedule D-4 (the “**Purchased Assets**”);
- (b) The granting to the HII Group of the following options (each an “**Option**” and collectively the “**Options**”):
- (i) The option to obtain (directly or indirectly) title to the shares of HLPM, the Baltic GPs and any European Entities;
  - (ii) The option to require the transfer of the legal or registered title to any assets held by HLPM, the Baltic GPs and any European Entities; and
  - (iii) The option to require the resignation of any or all General Partners, of any of the Partnerships or of the Baltic Partnerships;
- (c) The settlement and release of the Termination Claim and the Homburg Payables;

29. As appears from the Purchase Agreement, the HII Group undertakes to use commercially reasonable efforts to ensure that the manner of exercise of any Option shall seek to minimize any adverse tax liabilities to the HII Group. It is further provided that the timing and manner of exercise of any Option shall be subject to the approval of the Monitor and the Court;

30. In addition, the purchase of the Business by the HII Group addresses the concerns and issues raised both by the AFM and the Monitor and will allow the HII Group to exercise appropriate control over its assets and business with a view to diligently pursue its restructuring;

31. The Options will allow the HII Group to properly structure the transfer of the control of the General Partners and any assets of the Partnerships and Baltic Partnerships held directly or indirectly by the General Partners on behalf of the Partnerships, Baltic Partnerships or the European Entities, with a view to minimizing any negative tax

consequences for the Partnerships, the Baltic Partnerships and HII, including land transfer taxes relating to the assets located in the Netherlands and Germany;

32. The Homburg Payables represent certain payables owing by the HII Group and, subject to conclusion of satisfactory due diligence in respect thereof, it is appropriate to settle the Homburg Payables, as provided for in the Purchase Agreement;

**C. Consideration to be Paid by the HII Group**

33. In consideration for, *inter alia*, the acquisition of the Business, the Purchased Assets and the Options and the settlement of the Termination Claim and the Homburg Payables, the Purchaser shall pay the following:
- (a) A cash payment in the amount of ten million five hundred thousand dollars (CDN \$10,500,000.00) plus the amount of any receivable owing by HII under the European Agreement as at the Closing Date;
  - (b) Seven million four hundred and eight thousand nine hundred and four dollars (CDN \$7,408,904.00), to be satisfied by the irrevocable renunciation to and waiver by the Purchaser of all rights to the payment of a demand promissory note dated October 19, 2010 owed to HII by Resolution Real Estate Limited (the “**Note**”); and
  - (c) Three million one hundred and forty-nine thousand seven hundred and ninety-six dollars and forty-five cents (CDN \$3,149,796.45), to be satisfied by the transfer by the Purchaser and assignment of all right, title and interest in the Condominiums described in the conclusions hereof, free and clear of any CCAA Charges (as defined in the Initial Order);

The whole in accordance with the payment terms provided in Schedule C of the Purchase Agreement;

34. All sales taxes shall be for the account of the Purchaser and any land transfer taxes with respect to the Condominiums shall be payable by the Vendor Group;
35. The Purchase Agreement provides that in the event that the Monitor concludes that the fair market value of the assets which are subject of the Note and/or the Condominiums exceed the amounts set forth above, the Vendor Group has the option to acquire one or both of the Condominiums at an agreed fair market value;
36. As more fully appears from excerpts of the Register of Personal and Movable Real Rights and the Nova Scotia and Alberta Personal Property Registries, filed in support hereof as **Exhibit P-3** *en liasse*, HSBC Bank Canada, Romspen Investment Corporation and the Nova Scotia Securities Commission have registered security interests over HII’s moveable property;
37. As and from the Closing Date, the Purchaser shall assume only those liabilities set forth in Schedule D-1 of the Purchase Agreement, which liabilities relate to employees associated with the Business;

38. In consideration for the release and settlement of the Note, it is a condition precedent that HII Group and HCI Group obtain a release of any and all indebtedness and liability, if any, owing to SNS Group in connection with the projects known as 333 Sherbrooke, Viger and Chestermere (the “**Projects**”). This matter is currently the object of due diligence by HII and the Monitor;
39. As well, the Purchase Agreement provides for settlement and release of the Disputes in accordance with the terms of a release (the “**Release**”) in the form set forth in Schedule F of the Purchase Agreement;

**D. Limited Releases**

40. The Purchase Agreement provides for a Release, in the form set forth in Schedule F, to be executed and delivered on the Closing Date, pursuant to which:
- (a) The HII Released Parties (as defined therein) will release any claims related to the Note;
  - (b) The Homburg Released Parties (as defined therein) will release any claims related to the Homburg Payables; and
  - (c) The HII Released Parties and Homburg Released Parties will mutually release any claims based on, *inter alia*, the Disputes (as defined therein, which include the Termination Claim);
41. As appears from Schedule F, the releases do not cover, *inter alia*, any claim based on fraud, gross negligence, breach of trust, breach of fiduciary duty, failure to have acted honestly and in good faith, any preferences, transfers at undervalue and other reviewable transactions under sections 95 to 101 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, paulian actions, fraudulent conveyances and preferences, under any provincial legislation, and misappropriations;

**E. Conditions Precedent**

42. Finally, the HII Group’s obligation to proceed with the closing of the transactions contemplated under the Purchase Agreement is subject to, *inter alia*:
- (a) Satisfactory due diligence by HII and the Monitor;
  - (b) An order of this Honourable Court, in form and substance satisfactory to HII, *inter alia*, approving the Purchase Agreement and the transactions contemplated thereunder; and
  - (c) Conclusion of a settlement agreement by and among the trustees acting in that capacity for the bondholders of Homburg Shareco Inc. or HII (the “**Trustees**”) and certain members of the HII Group and respect by the Trustees of their obligations thereunder, including without limitation the withdrawal of certain motions or proceedings before this Honourable Court;



## F. Securities Law Exemption

43. The transactions contemplated by the Purchase Agreement may be “related party transactions” under *Multilateral Instrument 61-101 - Protection of minority security holders in special transactions* (adopted in this Province as R.R.Q., c. V-1.1, r. 33, under the *Securities Act*, R.S.Q., c. V-1.1) (“**Instrument 61-101**”). HII hereby requests that this Honourable Court authorize HII to rely on the exemptions from the formal valuation and minority approval requirements as provided for in Instrument 61-101. HII respectfully submits that this Honourable Court has the power and authority to grant the relief sought herein pursuant to sections 5.5(f) and 5.7(d) of Instrument 61-101;

### *Conclusion*

44. HII respectfully submits that the Purchase Agreement is in the best interests of its stakeholders, in that it:
- (a) Allows HII to protect its interest in the Partnerships and Baltic Partnerships and their assets through the acquisition of the Business, the Purchased Assets and the Options;
  - (b) Allows HII to structure the transactions related to the acquisition of the Business and the Purchased Assets to ensure that the limited partnership attributes are effectively maintained, including the limited liability of HII as limited partner;
  - (c) Provides HII with maximum flexibility and discretion in the exercise of the Options with a view to acquiring appropriate control of the General Partners and Baltic GPs, the European Entities and any assets of the Partnerships held directly or indirectly by them, the whole without triggering any immediate adverse tax consequence for the HII Group;
  - (d) Secures the cooperation of the Homburg Group and facilitates the diligent pursuit of HII’s restructuring efforts with a view to submitting a plan of arrangement or compromise to the affected creditors in due course;
  - (e) Settles and releases all claims relating to the Disputes;
  - (f) Allows HII to address the AFM’s concerns with respect to RH’s control and effectively removes HII and its assets from RH’s control; and
  - (g) Removes any risks, delays and costs inherent to any litigation relating to the issues addressed above including the GP Motion;
45. It is in the Petitioners’ and its stakeholders’ interests to proceed with closing of the Transaction (as defined in the conclusions hereof) as expeditiously as possible in order to advance its restructuring;
46. The Petitioners have acted and continue to act in good faith and with due diligence;
47. The present motion is well founded in fact and law.

**WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:**

1. **GRANT** the present Motion for approval of a Purchase Agreement and for ancillary orders (the “**Motion**”) and the orders sought by the Petitioners therein;
2. **DECLARE** that the service of the Motion constitutes good and sufficient service on all persons and further **DECLARE** that the Petitioners are relieved of any other requirements for service of the Motion;
3. **APPROVE** and **RATIFY** the execution of the Purchase Agreement dated November 17, 2011 by and among certain Petitioners, namely Homburg Invest Inc. (“**HII**”) , Churchill Estates Development Ltd., CP Development Ltd. and Inverness Estates Development Ltd. (collectively the “**Signing Petitioners**”) and Homburg Canada Incorporated, Homburg L.P. Management Incorporated, Richard Homburg, Homburg Services Group (Europe) B.V., Homburg Real Estate Services B.V. and the parties listed in Annex I hereto (the “**Purchase Agreement**”);
4. **DECLARE** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement;
5. **AUTHORIZE** the Signing Petitioners to perform all of their obligations under the Purchase Agreement, including without limitation and conditionally upon the closing of the transactions contemplated by the Purchase Agreement (the “**Transaction**”), payment of the Purchase Price and any and all sales tax payable with respect thereto;
6. **AUTHORIZE** the Signing Petitioners, subject to closing of the Transaction following the satisfaction or waiver by the HII Group and the Monitor of all conditions precedent in favour of the HII Group:
  - (a) to proceed with closing of the Transaction and to execute and deliver any documents and assurances governing or giving effect to the Transaction as the Signing Petitioners in their discretion, may deem to be reasonably necessary or advisable to conclude the Transaction, including the execution of such deeds, contracts, or documents as may be contemplated in the Transaction, including any alterations, changes, amendments, deletions or additions to the Purchase Agreement, as may be agreed to with the consent of the Monitor; and
  - (b) to take steps, as are, in the opinion of the Signing Petitioners, necessary or incidental to the performance of their obligations pursuant to the Transaction;
7. **AUTHORIZE** Samson Bélair/Deloitte & Touche Inc., in its capacity of Monitor to the Petitioners and without any personal or corporate liability (the “**Monitor**”), to take any and all actions necessary in connection with the Transaction, including the right to participate in the due diligence process contemplated by the Transaction;
8. **AUTHORIZE** the Signing Petitioners, subject to the closing of the Transaction following the satisfaction or waiver by the HII Group and the Monitor of all conditions precedent in favour of the HII Group, to irrevocably renounce and forever waive all rights to payment of the demand promissory note dated October 19, 2010 owed to HII by

Resolution Real Estate Limited in the amount seven million four hundred and eight thousand nine hundred and four dollars (\$7,408,904) (the “**Note**”) in accordance with the Purchase Agreement and **DECLARE** that upon renunciation and waiver of the Note by HII, the Note will be deemed to be free and clear of any Encumbrances including any CCAA Charges;

9. **AUTHORIZE** the Purchaser to transfer and assign all of its right, title and interest in the properties described in Schedule C-1 of the Purchase Agreement (the “**Condominiums**”) to the Vendor Group, in accordance with the terms of the Purchase Agreement;
10. **DECLARE** that the conveyance of the Condominiums, as the case may be, shall be made in accordance with the terms and conditions of the Purchase Agreement and shall be made free and clear of any and all CCAA Charges;
11. **DECLARE** that the Order sought constitutes the only authorization required by the Signing Petitioners to proceed with the Transaction and, for greater certainty, **DECLARE** that the Signing Petitioners are exempted from requiring or obtaining any formal valuation or authorization that may have been required from any person or authority whatsoever, including without limitation any formal valuation or approval pursuant to *Multilateral Instrument 61-101 - Protection of minority security holders in special transactions*;
12. **ORDER** and **DECLARE** that, notwithstanding:
  - (a) the pendency of these proceedings;
  - (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) in respect of the Signing Petitioners and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made in respect of the Signing Petitioners;

the Transaction contemplated under the Purchase Agreement shall be binding on any Trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable and shall not be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA, article 1631 and following of the *Civil Code of Québec*, S.Q. 1991, c. 64 or any other applicable federal or provincial legislation;

13. **ORDER** the provisional execution of the Order notwithstanding any appeal therefrom and without the necessity of furnishing any security;

**THE WHOLE WITHOUT COSTS**, save in the event of contestation.

MONTREAL, November 26, 2011

*Osler, Hoskin & Harcourt LLP*  

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**OSLER, HOSKIN & HARCOURT LLP**  
Attorneys for the Debtors / Petitioners

**ANNEX I**  
**Additional Parties**

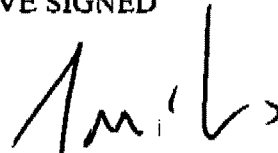
Castello Development Ltd.	Homburg LT LP1 GP1 Inc.
High River Development Ltd.	Homburg LT LP1 GP2 Inc.
Holland Garden Development Ltd.	Homburg LT LP2 GP1 Inc.
Homburg (185) L.P. Management Inc.	Homburg LT LP2 GP2 Inc.
Homburg (190) L.P. Management Inc.	Homburg LT LP3 GP1 Inc.
Homburg (191) L.P. Management Inc.	Homburg LT LP3 GP2 Inc.
Homburg Realty Funds Incorporated	Homburg Estonia Latvia GP Inc.
Homburg Holdings (U.S.) Inc.	Homburg Real Estate Trust
Richard Homburg	North Calgary Land Limited

**AFFIDAVIT**

I the undersigned, James F. Miles, domiciled and residing at 29 Coventry Lane, Dartmouth, Nova Scotia, B2V 2K2, solemnly declare the following:

1. I am the Vice-President and Chief Financial Officer of Homburg Invest Inc. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached Motion for approval of a Purchase Agreement and for ancillary orders;
3. All of the facts alleged in the said Motion are true.

AND I HAVE SIGNED



James F. Miles

SOLEMNLY DECLARED BEFORE ME  
ON THE TWENTY-SIXTH DAY OF NOVEMBER 2011.

  
\_\_\_\_\_  
NOTARY PUBLIC

CHRISTINE C. POUND  
A Notary Public in and for the  
Province of Nova Scotia

**ATTESTATION OF AUTHENTICITY**  
(Article 82.1 of the *Code of Civil Procedure*, R.S.Q. c. C-25)

I, the undersigned, Julien Morissette, attorney, exercising my profession at Osler, Hoskin & Harcourt LLP, situated at 1000 De La Gauchetière Street West, Suite 2100, in the city and district of Montréal, Province of Québec, solemnly declare the following:

1. I am one of the attorneys of the Petitioners to the present Motion for approval of a Purchase Agreement and for ancillary orders in Court file number 500-11-041305-117;
2. On November 26, 2011 at 4:43 p.m. (Montréal time), Osler, Hoskin & Harcourt LLP received by fax the Affidavit of James F. Miles, a duly authorized representative of Homburg Invest Inc., dated the same day;
3. The copy of the Affidavit attached hereto is a true copy of the Affidavit of James F. Miles received by fax from Christine C. Pound, from the city of Halifax, Province of Nova Scotia, from fax number 902.420.1417;
4. All of the facts alleged herein are true.

AND I HAVE SIGNED:



**Julien Morissette**

SOLEMNLY DECLARED BEFORE ME,  
IN MONTRÉAL, THIS TWENTY-SIXTH DAY OF NOVEMBER 2011.



**MIREILLE FILIMENTI**  
COMMISSIONER FOR OATHS  
FOR THE PROVINCE OF QUÉBEC



## NOTICE OF PRESENTATION

- TO : McCARTHY TÉTRAULT LLP Attorneys for the Monitor  
1000 De La Gauchetière Street West, Suite 2500  
Montréal QC H3B 0A2  
Me Mason Poplaw  
Me Jocelyn Perreault  
Me Miguel Bourbonnais  
email : mpoplaw@mccarthy.ca  
jperreault@mccarthy.ca  
mbourbonnais@mccarthy.ca
- TO : BENNETT JONES LLP Attorneys for Penn West  
4500 Bankers Hall East  
855 2<sup>nd</sup> Street West  
Calgary AB T2P 4K7  
Me Kenneth T. Lenz  
email : lenzk@bennettjones.com
- TO : BENNETT JONES LLP Attorneys for Statoil Canada Limited  
4500 Bankers Hall East  
855 2<sup>nd</sup> Street West  
Calgary AB T2P 4K7  
Me Chris Simard  
email : simardc@bennettjones.com
- TO : Langlois Kronström Desjardins LLP Attorneys for Statoil Canada Limited  
1002 Sherbrooke Street West  
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Montréal QC H3A 3L6  
Me Gerry Apostolatos  
Me Dimitri Maniatis  
Me Stefan Chripounoff  
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dimitri.maniatis@lkd.ca  
stefan.chripounoff@lkd.ca
- TO : BLAKES, CASSELS & GRAYDON LLP Attorneys for Homburg Canada Inc. and Homburg L.P. Management Inc.  
1000 Sherbrooke Street West, Suite 2700  
Montréal QC H3A 3G4  
Me Francis Rouleau  
Me Simon Seida  
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simon.seida@blakes.com



- TO : BLAKES, CASSELS & GRAYDON LLP  
199 Bay Street  
Toronto ON M5J 1A1  
Me Pam Huff  
Me Milly Chow  
email : pam.huff@blakes.com  
milly.chow@blakes.com
- Attorneys for Homburg Canada Inc. and Homburg L.P. Management Inc.
- TO : BORDEN LADNER GERVAIS LLP  
1000 De La Gauchetière Street West, Suite 900  
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**TAKE NOTICE** that the *Motion for approval of a Purchase Agreement and for ancillary orders* will be presented for hearing and allowance in the Superior Court, commercial division, at the Montréal Courthouse, 1, Notre-Dame Street East, Montréal, on December 6, 2011, at a time and in a room to be announced.

**PLEASE ACT ACCORDINGLY.**

MONTREAL, November 26, 2011

*Osler, Hoskin & Harcourt LLP*

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**OSLER, HOSKIN & HARCOURT LLP**

Attorneys for the Debtors / Petitioners

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)  
(sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*, R.S.C.,  
c. C-36, as amended)

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No.: 500-11-041305-117

**IN THE MATTER OF THE PLAN OF  
COMPROMISE OR ARRANGEMENT OF:**

**Homburg Invest Inc.  
Homburg Shareco Inc.  
Churchill Estates Development Ltd.  
Inverness Estates Development Ltd.  
CP Development Ltd.**

**Debtors / Petitioners**

-and-

**Homco Realty Fund (52) Limited Partnership  
Homco Realty Fund (88) Limited Partnership  
Homco Realty Fund (89) Limited Partnership  
Homco Realty Fund (92) Limited Partnership  
Homco Realty Fund (94) Limited Partnership  
Homco Realty Fund (105) Limited Partnership  
Homco Realty Fund (121) Limited Partnership  
Homco Realty Fund (122) Limited Partnership  
Homco Realty Fund (142) Limited Partnership  
Homco Realty Fund (199) Limited Partnership**

**Mis-en-cause**

-and-

**Homburg Canada Incorporated  
Homburg L.P. Management Incorporated  
Richard Homburg  
Homburg Services Group (Europe) B.V.  
Homburg Real Estate Services B.V.**

**Mis-en-cause**

-and-

**The Entities listed in Annex I**

**Mis-en-cause**

-and-

**HSBC Bank Canada  
Romspen Investment Corporation  
Nova Scotia Securities Commission**

**Mis-en-cause**

-and-

**Samson Bélair/Deloitte & Touche Inc.**

**Monitor**

## LIST OF EXHIBITS

- P-1 List of all Partnerships;
- P-2 Purchase Agreement dated November 17, 2011;
- P-3 Excerpts of the Register of Personal and Movable Real Rights and the Nova Scotia and Alberta Personal Property Registries

MONTREAL, November 26, 2011.

*Osler, Hoskin & Harcourt LLP*

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**OSLER, HOSKIN & HARCOURT LLP**

Attorneys for the Debtors / Petitioners

No: 500-11-041305-117

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SUPERIOR COURT  
(Commercial Division)  
DISTRICT OF MONTRÉAL

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IN THE MATTER OF THE PLAN OF COMPROMISE OR  
ARRANGEMENT OF :

HOMBURG INVEST INC. & AL.	Debtors/Petitioners
-and-	
HOMCO REALTY FUND (52) LIMITED PARTNERSHIP & AL.	Mis-en-cause
-and-	
HOMBURG CANADA INC. & AL.	Mis-en-cause
-and-	
THE ENTITIES LISTED IN ANNEX I	Mis-en-cause
-and-	
HSBC BANK CANADA	Mis-en-cause
-and-	
SAMSON BÉLAIR/DELOITTE & TOUCHE INC.	Monitor

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MOTION FOR APPROVAL OF A PURCHASE AGREEMENT  
AND FOR ANCILLARY ORDERS  
(Sections 11 and 36 of the Companies' Creditors Arrangement Act,  
R.S.C. 1985, c. C-36, as amended) AFFIDAVIT, ATTESTATION OF  
AUTHENTICITY, NOTICE OF PRESENTATION, LIST OF  
EXHIBITS, EXHIBITS P-1 TO P-3

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ORIGINAL

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