

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

No.: 500-11-041305-117

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)

**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.
North Calgary Land 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 (96) 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 (190) Limited Partnership
Homco Realty Fund (191) Limited Partnership
Homco Realty Fund (199) Limited Partnership**

Mises-en-cause

-and-

Stichting Homburg Bonds

Mise-en-cause

-and-

**Taberna Preferred Funding VI, Ltd.
Taberna Preferred Funding VIII, Ltd.
Taberna Europe CDO I P.L.C.
Taberna Europe CDO II P.L.C.**

Mises-en-cause

-and-

Samson Bélair/Deloitte & Touche Inc.

Monitor

MOTION FOR DIRECTIONS

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

TO THE HONOURABLE JUSTICE MARK SCHRAGER 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:

I. INTRODUCTION

1. On September 9, 2011, the Honourable Louis J. Guoin, J.S.C. issued an order (the “**Initial Order**”) pursuant to the *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) in respect of Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. and CP Development Ltd. (collectively the “**Initial Debtors**”) 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 Initial 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. Since then, this Court has further extended the Stay of Proceedings, most recently until February 8, 2013 (the “**Stay Period**”), as appears from the Court record;
4. As appears from the Initial Order and the First Extension Order, the Stay of Proceedings was initially 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 (collectively the “**Initial Mises-en-cause**”);
5. On May 31, 2012, this Court issued an order amending the Initial Order to add North Calgary Land Ltd. (“**NCLL**”) as a Petitioner and Homco Realty Fund (96) Limited Partnership (“**Homco 96**”) as a Mise-en-cause thereunder. On December 14, 2012, this Court issued a further order amending the Initial Order to add Homco Realty Fund (190) Limited Partnership (“**Homco 190**”) and Homco Realty Fund (191) Limited Partnership (“**Homco 191**”) as Mises-en-cause thereunder (NCLL, Homco 96, Homco 190, Homco 191, the Initial Debtors and the Initial Mises-en-cause are collectively referred to as the “**HII Group**”);
6. The HII Group respectfully requests that this Honourable Court provide directions regarding the Current Taberna Notes (as defined below) and specifically declare that the Current Taberna Notes are fully subordinated to the Bonds (as defined below) and that

any distribution to be made pursuant to the Plan (as defined below) in respect of the Current Taberna Notes are payable to holders of the Bonds, the whole as described more fully below;

II. CORPORATE BONDS

7. As previously disclosed to the Court, HII is a party to a Trust Indenture made as of May 31, 2006 (the “**Corporate Indenture**”) with Stichting Homburg Bonds as trustee (the “**Trustee**”), a copy of which is filed in support hereof as **Exhibit P-1**. Pursuant thereto and to four supplemental indentures (the “**Supplemental Corporate Indentures**”), copies of which are filed in support hereof as **Exhibit P-2 en liasse**, HII issued four series of corporate bonds (the “**Corporate Bonds**”) which are currently outstanding:
- (a) Homburg Bond 8 bonds (“**HB8**”);
 - (b) Homburg Bond 9 bonds (“**HB9**”);
 - (c) Homburg Bond 10 bonds (“**HB10**”); and
 - (d) Homburg Bond 11 bonds (“**HB11**”).
8. Interest on the Corporate Bonds is payable semi-annually on June 30 and December 31. The Corporate Bonds mature between May 2013 and January 2015, as appears from the following chart providing additional details:

Bond series	Maturity date	Interest rate	Amount
HB8	May 31, 2013	7.00%	€50,010,000
HB9	October 31, 2013	7.00%	€60,000,000
HB10	February 15, 2014	7.25%	€100,005,000
HB11	January 15, 2015	7.25%	€100,005,000

9. The Corporate Bonds represent a very substantial portion, and the largest single block, of HII’s debt (exclusive of debts owed by the various limited partnerships and subsidiaries);
10. HII is in default under the Corporate Indenture and the Supplemental Corporate Indentures, *inter alia* for having failed to make any interest payments thereunder subsequent to the Initial Order;

III. MORTGAGE BONDS

11. As previously disclosed to the Court, Shareco is a party to a Trust Indenture dated as of December 15, 2002 with Stichting Homburg Mortgage Bond (now the Trustee) (the “**Mortgage Indenture**”). Pursuant thereto and to a Second Supplemental Indenture dated as of November 30, 2004, a Third Supplemental Indenture dated as of December 31, 2004, a Fourth Supplemental Indenture dated as of July 1, 2005 and a Fifth Supplemental

Indenture dated as of January 15, 2008 (collectively, the “**Supplemental Mortgage Indentures**”), Shareco issued four series of “**Mortgage Bonds**” which are currently outstanding:

- (a) Series 4 Bonds in the principal amount of €20.01 million;
- (b) Series 5 Bonds in the principal amount of €20.01 million;
- (c) Series 6 Bonds in the principal amount of €31.23 million; and
- (d) Series 7 Bonds in the principal amount of €31.23 million.

A copy of the Mortgage Indenture is filed in support hereof as **Exhibit P-3** and copies of the Supplemental Mortgage Indentures are filed in support hereof as **Exhibit P-4 en liasse**;

- 12. The obligations of Shareco under the Mortgage Bonds are guaranteed by HII pursuant to a Guarantee Agreement entered into by HII as of December 15, 2002;
- 13. Shareco is in default under the Mortgage Indenture and the Supplemental Mortgage Indentures, *inter alia* for having failed to make any interest payments thereunder subsequent to the Initial Order;
- 14. As more fully appears *inter alia* from the *Motion for approval of funding charges (Homco 52 and Homco 88)*, in the Court record, it is currently anticipated that the assets securing the Mortgage Bonds will be insufficient to repay all amounts due thereunder. Accordingly, the Trustee will have an unsecured deficiency claim against Shareco or HII as guarantor (this claim, along with the Trustee’s claim against HII under the Corporate Bonds, is referred to hereinafter as the “**Bonds**”);

IV. TABERNA NOTES

A. 2006 Transaction

- 15. On July 26, 2006, HII entered into a Junior Subordinated Indenture with Wells Fargo Bank, N.A., as trustee (“**Wells Fargo**”) for the issuance of US \$20 million junior subordinated notes due 2036 (the “**Original Taberna US Indenture**”). A copy thereof is filed in support hereof as **Exhibit P-5**;
- 16. Pursuant to the Original Taberna US Indenture, Taberna Preferred Funding VI, Ltd. (“**Taberna VI**”) was the beneficial owner of a US \$12 million interest (the “**Original Taberna VI Note**”) in a US \$20 million note (the “**Original Taberna US Note**”) issued by HII thereunder, a copy of which is filed in support hereof as **Exhibit P-6**. Taberna Preferred Funding VIII, Ltd. (“**Taberna VIII**”) was the beneficial owner of the remaining US \$8 million interest in the Original Taberna US Note (the “**Original Taberna VIII Note**”);

17. Also on July 26, 2006, HII entered into a Junior Subordinated Indenture with Wells Fargo as trustee for the issuance of €25 million junior subordinated notes due 2036 (the “**Original Taberna Euro Indenture**”). A copy thereof is filed in support hereof as **Exhibit P-7**;
18. Pursuant to the Original Taberna Euro Indenture, Taberna Europe CDO I P.L.C. (“**Taberna Europe I**”) was the holder of a €20 million note issued by HII thereunder (the “**Original Taberna Europe I Note**”) and Taberna Europe CDO II P.L.C. (“**Taberna Europe II**”) was the holder of a €5 million note issued by HII thereunder (the “**Original Taberna Europe II Note**” and, jointly with the Original Taberna Europe I Note, the “**Original Taberna Europe Notes**”), copies of which are filed in support hereof as **Exhibit P-8 en liasse**;
19. For ease of reference, Taberna VI, Taberna VIII, Taberna Europe I and Taberna Europe II are collectively referred to herein as the “**Taberna Noteholders**”. Similarly, the Original Taberna VI Note, the Original Taberna VIII Note, the Original Taberna Europe I Note and the Original Taberna Europe II Note are collectively referred to herein as the “**Original Taberna Notes**”;
20. Article XII of the Original Taberna US Indenture and the Original Taberna Euro Indenture (jointly, the “**Original Taberna Indentures**”), entitled “Subordination of securities”, states in part:

SECTION 12.1. Securities Subordinate to Senior Debt.

The Company covenants and agrees, and each Holder of a Security, by its acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article XII, the payment of the principal of and any premium and interest (including any Additional Interest) on each and all of the Securities are hereby expressly made subordinate and subject in right of payment to the prior payment in full of all Senior Debt.

SECTION 12.2. No Payment When Senior Debt in Default; Payment Over of Proceeds Upon Dissolution, Etc.

(a) In the event and during the continuation of any default by the Company in the payment of any principal of or any premium or interest on any Senior Debt (following any grace period, if applicable) when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration of acceleration or otherwise, then, upon written notice of such default to the Company by the holders of such Senior Debt or any trustee therefor, unless and until such default shall have been cured or waived or shall have ceased to exist, no direct or indirect payment (in cash, property, securities, by set-off or otherwise) shall be made or agreed to be made on account of the principal of or any premium or interest (including any Additional Interest) on any of the Securities, or in respect of any redemption, repayment, retirement, purchase or other acquisition of any of the Securities.

(b) In the event of a bankruptcy, insolvency or other proceeding described in clause (d) or (e) of the definition of Event of Default (each such event, if any, herein sometimes referred to as a "*Proceeding*"), all Senior Debt (including any interest thereon accruing after the commencement of any such proceedings) shall first be paid in full before any payment or distribution, whether in cash, securities or other property, shall be made to any Holder of any of the Securities on account thereof. Any payment or distribution, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment), which would otherwise (but for these subordination provisions) be payable or deliverable in respect of the Securities shall be paid or delivered directly to the holders of Senior Debt in accordance with the priorities then existing among such holders until all Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) shall have been paid in full.

(c) In the event of any Proceeding, after payment in full of all sums owing with respect to Senior Debt, the Holders of the Securities, together with the holders of any obligations of the Company ranking on a parity with the Securities, shall be entitled to be paid from the remaining assets of the Company the amounts at the time due and owing on account of unpaid principal of and any premium and interest (including any Additional Interest) on the Securities and such other obligations before any payment or other distribution, whether in cash, property or otherwise, shall be made on account of any Equity Interests or any obligations of the Company ranking junior to the Securities and such other obligations. If, notwithstanding the foregoing, any payment or distribution of any character on any security, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment) shall be received by the Trustee or any Holder in contravention of any of the terms hereof and before all Senior Debt shall have been paid in full, such payment or distribution or security shall be received in trust the benefit of, and shall be paid over or delivered and transferred to, the relevant holders of the Senior Debt at the time outstanding in accordance with the priorities then existing among such holders for application to the payment of all Senior Debt remaining unpaid, to the extent necessary to pay all such Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) in full. In the event of the failure of the Trustee or any Holder to endorse or assign any such payment, distribution or security, each holder of Senior Debt is hereby irrevocably authorized to endorse or assign the same.

21. As per Section 1.1 of the Original Taberna Indentures, “**Senior Debt**” is defined as:

[T]he principal of and any premium and interest on (including interest accruing on or after the filing of any petition [...] for reorganization relating to [HII], whether or not such claim for post-petition interest is allowed in such proceeding) all Debt of [HII], whether incurred on or prior to the date of this Indenture or thereafter incurred, unless it is expressly provided in the instrument creating or evidencing the same [...], that such obligations are not superior in right of payment to the Securities issued under this Indenture...

The definition of “Debt” included therein is very broad but specifically excludes “trade accounts payable or other accrued liabilities arising in the ordinary course of business”;

22. Section 1.11 of the Original Taberna Indentures provides that they, along with the “rights and obligations” of the Taberna Noteholders are “governed by the law of the State of New York without reference to its conflict of laws provisions (other than section 5-1401 of the General Obligations Law)”. Section 1.12 contains a non-exclusive submission to jurisdiction of the state and federal courts sitting in the Borough of Manhattan;
23. The second-last paragraph of the face-side of the Original Taberna Notes states *inter alia* that:

The indebtedness evidenced by this Security is, to the extent provided in the Indenture, subordinate and junior in right of payment to the prior payment in full of all Senior Debt, and this Security is issued subject to the provisions of the Indenture with respect thereto.

24. The Original Taberna Notes provide for interest payable quarterly in arrears on January 30, April 30, July 30 and October 30 of each year beginning on April 30, 2011 (or the next succeeding business day, as applicable). Interest accrues at 9.475% (Original Taberna US Note) or 8.035% (Original Taberna Europe Notes) per annum until July 30, 2016, and thereafter at a variable rate equal to LIBOR (Original Taberna US Note) or EURIBOR (Original Taberna Europe Notes) plus 3.85%;

B. 2011 Transaction

25. Some three and a half years later, HII and the Taberna Noteholders agreed to loosen the financial covenants required to be met under the Original Taberna Indentures for the period ending on December 31, 2015, in exchange for the issuance of letters of credit securing certain payments due under the Original Taberna Notes;
26. In order to implement the agreed changes to the financial covenants and to provide for the issuance of the letters of credit, HII, Taberna VIII, Taberna Europe I and Taberna Europe II executed an “**Exchange Agreement**” dated as of February 28, 2011, a copy of which is filed in support hereof as **Exhibit P-9**, pursuant to which HII agreed to issue new notes pursuant to new indentures containing such financial covenants and providing for the issuance of such letters of credit. Taberna VIII, Taberna Europe I and Taberna

Europe II each agreed to exchange their existing notes against the new notes in the same denominations issued under such new indentures;

27. Accordingly, on February 28, 2011, HII issued a new US \$8 million note pursuant to a Junior Subordinated Indenture dated as of February 28, 2011 and new €20 million and €5 million notes pursuant to another Junior Subordinated Indenture dated as of February 28, 2011 (collectively, the “**New Taberna Indentures**”). On the same date, Taberna VIII, Taberna Europe I and Taberna Europe II each exchanged their respective Original Taberna Notes in the amounts of US \$8 million, €20 million and €5 million, respectively, (which notes were then cancelled) against the new notes in the same amounts (collectively, the “**2011 Taberna Notes**”), copies of which are filed in support hereof as **Exhibit P-10 en liasse**;
28. Due to certain prohibitions set forth in its collateralized debt obligation indenture, Taberna VI was not a party to the Exchange Agreement and no new note was issued to replace the Original Taberna VI Note which remained outstanding (the Original Taberna VI Note, collectively with the 2011 Taberna Notes, are referred to herein as the “**Current Taberna Notes**”);
29. Instead, HII and Wells Fargo, as trustee, amended and restated the Original Taberna US Indenture as of February 28, 2011 (collectively with the New Taberna Indentures, the “**Current Taberna Indentures**”) to incorporate the same terms as the New Taberna Indentures. Thereafter, this amended and restated indenture governed the rights of Taberna VI under the outstanding Original Taberna VIII Note. Copies of the Current Taberna Indentures are filed in support hereof as **Exhibits P-11, P-12 and P-13**;
30. As appears from the Current Taberna Indentures, Article XII of the Current Taberna Indentures, entitled “Subordination of securities”, was modified but retained the following language with respect to subordination:

SECTION 12.1. *Securities Subordinate to Senior Debt.*

The Company covenants and agrees, and each Holder of a Security, by its acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article XII, the payment of the principal of and any premium and interest (including any Additional Interest) on each and all of the Securities are hereby expressly made subordinate to the Senior Debt. Notwithstanding anything to the contrary contained herein, the securities issued pursuant to those certain Junior Subordinated Indentures, each dated as of the date hereof, between the Company and the Trustee shall not be Senior Debt or otherwise entitled to the subordination provisions of this Article XII and the Securities shall rank *pari passu* in right of payment to such securities.

SECTION 12.2. *No Payment When Senior Debt in Default.*

- (a) In the event and during the continuation of any default by the Company in the payment of any principal of or any premium or interest on any Senior Debt (following any grace period, if applicable) when the same becomes due and payable, whether at maturity or at a date fixed for

prepayment or by declaration of acceleration or otherwise, then, upon written notice of such default to the Company by the holders of such Senior Debt or any trustee therefor, unless and until such default shall have been cured or waived or shall have ceased to exist, no direct or indirect payment (in cash, property, securities, by set-off or otherwise) shall be made or agreed to be made on account of the principal of or any premium or interest (including any Additional Interest) on any of the Securities, or in respect of any redemption, repayment, retirement, purchase or other acquisition of any of the Securities.

(the “**Current Indenture Subordination Provisions**”);

31. The language which was included as sub-Sections 12.2(b) and 12.2(c) in the Original Taberna Indentures is not reproduced in the Current Taberna Indentures;
32. As is customary, the Exchange Agreement does not contain any provisions relevant to the definition of Senior Debt or of the Current Indenture Subordination Provisions found in Current Taberna Indentures;
33. The second-last paragraph of the face-side of the 2011 Taberna Notes states *inter alia* that:

The indebtedness evidenced by this Security is, to the extent provided in the Indenture, subordinate to the Senior Debt, and this Security is issued subject to the provisions of the Indenture with respect thereto.
34. The Current Taberna Notes require interest payments until they are paid or duly provided for. No interest has been paid pursuant to the Current Taberna Notes subsequent to the issuance of the Initial Order;
35. The Current Taberna Notes represent less than 10% of HII’s debt (exclusive of debts owed by the various limited partnerships and subsidiaries). The Taberna Noteholders are probably the second largest cohesive group of creditors of HII, after the Corporate Bondholders;

V. EFFECT OF THE SUBORDINATION PROVISIONS

36. As already represented to this Honourable Court, the Taberna Noteholders have taken the position that the Current Taberna Notes are not subordinated to the Bonds. The holders of the Bonds have taken the opposite position;
37. HII submits that any payments to the Taberna Noteholders are contingent on full satisfaction of the Bonds. More specifically:
 - (a) The Taberna Noteholders are unsecured creditors;
 - (b) Under the terms of the Current Taberna Notes, the Bonds are Senior Debt;

- (c) The Bonds are in default under the terms of the Corporate Indenture, the Supplemental Corporate Indentures, the Mortgage Indenture and the Supplemental Mortgage Indentures; and
- (d) HII cannot make any payments in connection with the Current Taberna Notes so long as any Senior Debt is in default.

38. Accordingly, unless the Bonds are fully satisfied, which is not currently anticipated, all payments which would be attributed to the Taberna Noteholders under any plan of arrangement to be filed by HII (the “**Plan**”) should be remitted to the holders of Bonds;

VI. DIRECTIONS SOUGHT FROM THE COURT

39. For the orderly and timely administration of the Plan, it is in the interest of the HII Group and of all parties that this Honourable Court provide directions clarifying the respective rights of the Taberna Noteholders and of the holders of Bonds;

40. Therefore, in the conclusions herein, HII hereby seeks declarations from the Court which are consistent with the foregoing;

41. The Monitor has indicated that it will be filing a report (the “**Monitor’s Report**”) in support of the present motion;

42. As will appear from the Monitor’s Report, the Monitor supports the present Motion;

43. The HII Group has acted, and continues to act, in good faith and with the utmost diligence;

44. The present motion is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present *Motion for directions* (the “**Motion**”);

DECLARE that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion;

DECLARE that the payment of any and all amounts owing under and pursuant to the Current Taberna Notes is subordinated to the full and complete payment of any and all amounts owing in respect of the Senior Debt, including without limitation the Bonds, unless and until the Senior Debt is fully satisfied;

ORDER that for the purpose of any distribution to occur under any Plan, any distribution to the Taberna Noteholders by virtue of their status as unsecured creditors and holders of the Current Taberna Notes shall be remitted to the holders of the Senior Debt on a pro-rata basis, including without limitation the Bonds, unless and until the Senior Debt is fully satisfied;

PRAY ACT of the Monitor’s Report;

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

MONTRÉAL, December 18, 2012

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtors and Homco Realty
Fund (x) Limited Partnership Mises-en-cause

AFFIDAVIT

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

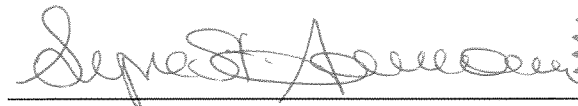
1. I am the Vice-President and Chief Financial Officer of Homburg Invest Inc. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached *Motion for directions*;
3. All of the facts alleged in the said motion are true.

AND I HAVE SIGNED



James F. Miles

SOLEMNLY DECLARED BEFORE ME
IN MONTRÉAL ON THE
18TH DAY OF DECEMBER 2012.



Commissioner for Oaths for
the Province of Québec



NOTICE OF PRESENTATION

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Group Inc.

TAKE NOTICE that the *Motion for directions* will be presented for hearing and allowance in the Superior Court, commercial division, at the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on a date and in a room to be announced.

PLEASE ACT ACCORDINGLY.

MONTRÉAL, December 18, 2012

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Debtors and Homco Realty
Fund (x) Limited Partnership Mises-en-cause

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-041305-117

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)

**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.
North Calgary Land 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 (96) 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 (190) Limited Partnership
Homco Realty Fund (191) Limited Partnership
Homco Realty Fund (199) Limited Partnership**

Mises-en-cause

-and-

Stichting Homburg Bonds

Mise-en-cause

-and-

**Taberna Preferred Funding VI, Ltd.
Taberna Preferred Funding VIII, Ltd.
Taberna Europe CDO I P.L.C.
Taberna Europe CDO II P.L.C.**

Mises-en-cause

-and-

Samson Bélair/Deloitte & Touche Inc.

Monitor

LIST OF EXHIBITS

- P-1 Trust Indenture dated as of May 31, 2006 between Homburg Invest Inc. and Stichting Homburg Bond
- P-2 Four Supplemental Indentures (Corporate Bonds)
- P-3 Trust Indenture dated as of December 15, 2002 between Homburg Shareco Inc. and Stichting Homburg Mortgage Bond
- P-4 Four Supplemental Indentures (Mortgage Bonds)
- P-5 Junior Subordinated Indenture dated as of July 26, 2006 between Homburg Invest Inc. and Wells Fargo Bank, N.A. (US Dollars)
- P-6 US \$20 million note
- P-7 Junior Subordinated Indenture dated as of July 26, 2006 between Homburg Invest Inc. and Wells Fargo Bank, N.A. (Euros)
- P-8 €20 million note and €5 million note
- P-9 Exchange Agreement dated as of February 28, 2011 between Homburg Invest Inc., Taberna Preferred Funding VIII, Ltd., Taberna Europe CDO I P.L.C. and Taberna Europe CDO II P.L.C.
- P-10 US \$8 million note, €20 million note and €5 million note
- P-11 Junior Subordinated Indenture dated as of February 28, 2011 between Homburg Invest Inc. and Wells Fargo Bank, N.A. (US Dollars)
- P-12 Junior Subordinated Indenture dated as of February 28, 2011 between Homburg Invest Inc. and Wells Fargo Bank, N.A. (Euros)

P-13 Amended and Restated Junior Subordinated Supplemental Indenture dated as of February 28, 2011 between Homburg Invest Inc. and Wells Fargo Bank, N.A. as Trustee

MONTRÉAL, December 18, 2012

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtors and Homco Realty
Fund (x) Limited Partnership Mises-en-cause

No.: 500-11-041305-117

SUPERIOR COURT
(Commercial Division)

DISTRICT OF MONTRÉAL

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

HOMBURG INVEST INC. ET AL.

Debtors/Petitioners

-and-

HOMCO REALTY FUND (S2) LIMITED PARTNERSHIP
ET AL.

Mises-en-cause

-and-

STICHTING HOMBURG BONDS

Mise-en-cause

-and-

TABERNA PREFERRED FUNDING VI, LTD. ET AL.

Mises-en-cause

-and-

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.

Monitor

MOTION FOR DIRECTIONS (Sections 11

Companies' Creditors Arrangement Act, R.S.C., 1985,

c. C-36), AFFIDAVIT, NOTICE OF

PRESENTATION, NOTICE OF DISCLOSURE OF
EXHIBITS

ORIGINAL

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