

**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.**

**Homburg Management (Canada) Inc.**

**Debtors / Petitioners**

-and-

**Homco Realty Fund (52) Limited Partnership**

**Homco Realty Fund (61) 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**

**Castello Development Ltd.**

**Mises-en-cause**

-and-

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

**Monitor**

**PLAN OF COMPROMISE OF HOMCO REALTY FUND (61) LIMITED  
PARTNERSHIP**

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

## TABLE OF CONTENTS

	Page
ARTICLE 1 INTERPRETATION.....	2
1.1    Definitions.....	2
1.2    Certain Rules of Interpretation.....	11
1.3    Time .....	12
1.4    Date and Time for any Action .....	13
1.5    Successors and Assigns.....	13
1.6    Governing Law .....	13
1.7    Governing Language.....	13
1.8    Schedules .....	13
ARTICLE 2 PURPOSE AND EFFECT OF THE HOMCO 61 PLAN.....	14
2.1    Purpose and Background .....	14
2.2    Persons Affected .....	14
2.3    Persons Not Affected .....	14
2.4    Equity Claims.....	14
2.5    Homco 61 Affected Creditors (including Bond 6 Claim Holders) and the Homco 61 Intercompany Claim.....	15
ARTICLE 3 CLASSIFICATION OF HOMCO 61 CREDITORS, HOMCO 61 VOTING CLAIMS AND RELATED MATTERS .....	15
3.1    Classification of Homco 61 Creditors.....	15
3.2    Homco 61 Affected Claims .....	16
3.3    Homco 61 Unaffected Claims.....	16
3.4    Priority Claims .....	16
3.5    Homco 61 Creditors' Meeting .....	16
3.6    Voting .....	16
3.7    Procedure for Valuing Homco 61 Voting Claims.....	17
3.8    Approval by Homco 61 Creditors.....	17
3.9    Guarantees and Similar Covenants .....	17
ARTICLE 4 THE HII HOMCO 61 DISTRIBUTION .....	17
4.1    The HII Homco 61 Distribution.....	17
4.2    Administrative Convenience.....	18
ARTICLE 5 DISTRIBUTIONS AND PAYMENTS TO HOMCO 61 AFFECTED CREDITORS .....	18
5.1    Distribution Mechanics.....	18
5.2    Currency.....	19
5.3    Interest and Fees .....	19
5.4    Assignment of Claims for Voting and Distribution Purposes Prior to the Homco 61 Creditors' Meeting .....	19
5.5    Assignment of Claims for Distribution Purposes After the Homco 61 Creditors' Meeting.....	19

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
5.6 Tax Matters .....	20
<b>ARTICLE 6 HOMCO 61 PLAN IMPLEMENTATION DATE TRANSACTIONS .....</b>	<b>20</b>
6.1 Corporate Authorizations.....	20
6.2 Homco 61 Plan Implementation Date Transactions .....	21
6.3 Homco 61 Plan Transactions .....	21
<b>ARTICLE 7 HOMCO 61 PLAN RELEASES .....</b>	<b>22</b>
7.1 Homco 61 Plan Releases.....	22
<b>ARTICLE 8 COURT SANCTION, HOMCO 61 CONDITIONS PRECEDENT AND IMPLEMENTATION.....</b>	<b>24</b>
8.1 Application for Homco 61 Sanction Order.....	24
8.2 Homco 61 Sanction Order .....	24
8.3 Homco 61 Conditions Precedent to Implementation of the Homco 61 Plan .....	27
8.4 Monitor’s Certificate.....	27
<b>ARTICLE 9 GENERAL.....</b>	<b>27</b>
9.1 Binding Effect.....	27
9.2 Waiver of Defaults .....	28
9.3 Homco 61 Claims Bar Date .....	28
9.4 Deeming Provisions .....	29
9.5 Non-Consummation.....	29
9.6 Modification of the Plan .....	29
9.7 Paramountcy .....	30
9.8 Severability of Plan Provisions.....	30
9.9 Responsibilities of the Monitor.....	30
9.10 Different Capacities .....	31
9.11 Notices .....	31
9.12 Further Assurances.....	32

## HOMCO 61 PLAN OF COMPROMISE

### WHEREAS:

- A. Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd., CP Development Ltd., North Calgary Land Ltd. and Homburg Management (Canada) Inc. (collectively, the “**Petitioners**”) are insolvent;
- B. The Petitioners filed and obtained protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”);
- C. The Petitioners, excluding North Calgary Land Ltd. and Homburg Management (Canada) Inc., obtained an Order of the Superior Court of Quebec (Commercial Division) (the “**Court**”) under the CCAA on September 9, 2011, as amended pursuant to further orders of the Court (and as same may be further amended, restated or varied from time to time, the “**Initial Order**”);
- D. The Initial Order declared that, although not a Petitioner, each of *mis-en-cause* 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 shall enjoy the protections and authorizations provided by the Initial Order (such partnerships collectively referred to in the Initial Order as the “**Applicant Partnerships**”);
- E. By Order dated May 31, 2012, the Initial Order was amended to add North Calgary Land Ltd. as a Petitioner and *mis-en-cause* Homco Realty Fund (96) Limited Partnership as an Applicant Partnership thereunder (hereinafter included as an “Applicant Partnership”);
- F. By Order of the Court made on December 14, 2012, *mis-en-cause* Homco Realty Fund (190) Limited Partnership and Homco Realty Fund (191) Limited Partnership were each added as additional Applicant Partnerships (hereinafter each included as an “Applicant Partnership”);
- G. HII and Shareco filed with the Court a joint Plan of Compromise and Reorganization under and pursuant to the CCAA and the Alberta *Business Corporations Act* (“**ABCA**”) dated February 5, 2013 (the “**Original Plan**”);
- H. By Order of the Court made on February 6, 2013, the Initial Order was further amended to add Homco Realty Fund (61) Limited Partnership as an additional Applicant Partnership (“**Homco 61 LP**”, hereinafter included as an “**Applicant Partnership**”) and Castello Development Ltd. as a *mis-en-cause* thereunder;
- I. By Order of the Court made on March 14, 2013, the Initial Order was further amended to add Homburg Management (Canada) Inc. as a Petitioner;

- J. Pursuant to the Initial Order the Petitioners and the Applicant Partnerships have the authority to file with the Court and to submit to their creditors one or more plans of compromise or arrangement under the CCAA, which plans will provide, among other things, for certain recoveries to their respective stakeholders;
- K. Homco 61 LP hereby proposes this Homco 61 Plan of Compromise under and pursuant to the CCAA, which shall be contingent upon, *inter alia*, the approval of the HII Plan by the Requisite Majority of Affected Creditors of HII and Shareco and the approval of the Court (the “**Homco 61 Plan**”);
- L. HII and Shareco have proposed to amend and restate the Original Plan, among other things, to give effect to this Homco 61 Plan (as defined herein).

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In the Homco 61 Plan, terms used but not defined herein shall have the meaning ascribed thereto in the HII Plan. Unless otherwise stated or unless the subject matter or context otherwise requires, the following terms shall have the following meanings:

“**Applicable Law**” means, in respect of any Person, property, transaction, event or other matter, any law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty or Order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Governmental Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Governmental Authority as requiring compliance;

“**Bond 6 Claim Holders**” means, collectively, the holders of Series 6 bonds issued under the Bond 6 Indenture, and “**Bond 6 Claim Holder**” means any one of them;

“**Bond 6 HII Deficiency Claim**” means the aggregate Proven Claim for distribution purposes of the Bond 6 Claim Holders against HII under the HII Plan which shall be deemed to be an amount equal to the Bond 6 HII Claim net of the Bond 6 Homco 61 Recovered Amount;

“**Bond 6 Homco 61 Claim**” means the aggregate Homco 61 Proven Claim of the Bond 6 Claim Holders against Homco 61 LP arising under the Homco 61 Guarantee for voting and distribution purposes under the Homco 61 Plan which shall be deemed to be in the amount of Cdn\$47,146,111 (being principal plus interest accrued as at the Homco 61 Filing Date);

**“Bond 6 Homco 61 Recovered Amount”** means the aggregate of all Bond 6 Claim Holders’ *pro rata* shares of the HII Homco 61 Distribution recovered by such Bond 6 Claim Holders under the Homco 61 Plan on account of the Bond 6 Homco 61 Claim;

**“Bond 6 Indenture”** means the Fourth Supplemental Indenture dated July 1, 2005 to the Trust Indenture dated December 15, 2002, between Shareco and the Trustee, as amended by the Special Supplemental Indenture to the Fourth Supplemental dated August, 2005 between Shareco and the Trustee, and the Second Special Supplemental Indenture to the Fourth Supplemental dated November 30, 2007, between Shareco and the Trustee;

**“Business”** means the direct and indirect business operations and activities of Homco 61 LP;

**“Cash”** means cash, certificates of deposits, bank deposits, commercial paper, treasury bills and other cash equivalents including for greater certainty, the Cash component of the HII Homco 61 Distribution paid to Homco 61 LP pursuant to and in accordance with the HII Plan;

**“CCAA”** means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

**“CCAA Proceedings”** means the proceedings under the CCAA in respect of Homco 61 LP;

**“Claim”** means any right or claim of any Person, whether or not asserted, in connection with any Indebtedness, liability or obligation of any kind whatsoever, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by Guarantee, by surety, by warranty or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim arising from or caused by the termination, disclaimer, rescission, assignment or repudiation of any contract, lease or other agreement, whether written or oral, the commission of a tort (intentional or unintentional), any breach of duty (including without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property, employment, contract, a trust or deemed trust, howsoever created or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any grievance, matter, action, cause or chose in action, whether existing at present or commenced in the future, based in whole or in part on facts which existed on the Homco 61 Filing Date (including a Claim which relates to any time period prior to the Homco 61 Filing Date), together with any other claims of any kind that, if unsecured, would constitute a debt provable in bankruptcy within the meaning of the BIA, and for greater certainty, a “Claim” shall include any Equity Claim and any Bond 6 Homco 61 Claim;

**“Claim Process Order”** means the Order of the Court made on April 30, 2012, as amended, restated and varied from time to time, including in particular on February 6,

2013, approving and implementing the claims process in respect of, *inter alia*, Homco 61 LP;

**“Court”** means the Quebec Superior Court (Commercial Division) or any appellate court seized with jurisdiction in the CCAA Proceedings, as the case may be;

**“Deloitte”** means Samson Bélair/Deloitte & Touche Inc.

**“Excluded Claim”** means: (i) any Claim secured by the CCAA Charges (ii) Homco 61 Post-Filing Trade Payables; and (iii) any other Claim ordered by the Court to be treated as an Excluded Claim;

**“Final Order”** means a final Order of the Court, the implementation, operation or effect of which shall not have been stayed, varied, vacated or subject to pending appeal and as to which Order any appeal periods relating thereto shall have expired;

**“Governmental Authority”** means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government including without limitation any Taxing Authority;

**“Guarantee”** of a Person means any Liability of that Person under any guarantee, agreement, endorsement (other than for collection or deposit in the ordinary course of business of that Person), discount with recourse or other obligation to pay, purchase, repurchase or otherwise be or become liable or obligated upon or in respect of any Indebtedness of any other Person to indemnify or hold harmless any Person from or against any losses, liabilities or damages, in circumstances intended to enable the Person to incur or pay any Indebtedness or to comply with any agreement relating thereto or otherwise to assure or protect Homco 61 Creditors against loss in respect of the Indebtedness;

**“HII Filing Date”** means September 9, 2011;

**“HII Homco 61 Distribution”** means the aggregate value of all non-Cash and Cash distributions made to Homco 61 LP under the HII Plan on account of the Homco 61 Net Intercompany Claim (for greater certainty being its Pro Rata Share of the Newco Equity Pool, the Cash Pool and the Asset Realization Cash Pool);

**“HII Loan”** means the loan by HII to Homco 61 LP evidenced by the Homco 61 Note, in the amount of Cdn\$65,197,177 as at the HII Filing Date (and as at the Homco 61 Filing Date was Cdn\$71,597,837,15);

**“HII Plan”** means the Joint Plan of Compromise and Arrangement of HII and Shareco pursuant to the CCAA and the ABCA dated February 5, 2013, as amended and restated

on April 23, 2013 and as may be further amended, restated, supplemented or otherwise modified from time to time in accordance with its terms;

**“HII/Shareco Meeting Order”** means the Order, substantially in the form attached as Schedule “C” to the HII Plan, to be made by the Court under the CCAA that, among other things, sets the date for the HII/Shareco Creditors’ Meeting, approves the HII/Shareco Meeting Material, as same may be amended, restated or varied from time to time;

**“Homco 61 Administrative Reserve Costs”** means all amounts on account of Homco 61 Employee Priority Claims, Homco 61 Government Priority Claims and the Homco 61 Post-Filing Trade Payables;

**“Homco 61 Affected Claim”** means any Claim against Homco 61 LP, including the Bond 6 Homco 61 Claim, but excluding the Homco 61 Unaffected Claims and the Equity Claims;

**“Homco 61 Affected Creditor”** means any Creditor holding a Homco 61 Affected Claim under the Homco 61 Plan;

**“Homco 61 Affected Creditors’ Entitlement”** means the full entitlement of Homco 61 Affected Creditors under the Homco 61 Plan, including without limitation the entitlement of such Homco 61 Affected Creditors to receive Newco Common Shares and/or distributions of Cash from the Cash Pool and the Asset Realization Cash Pool, and **“Homco 61 Affected Creditor’s Entitlement”** means the full entitlement of a Homco 61 Affected Creditor;

**“Homco 61 Affected Creditor’s Pro Rata Share”** means each Homco 61 Affected Creditor’s *pro rata* share of the HII Homco 61 Distribution;

**“Homco 61 Claims Bar Date”** means the claims bar date for Claims against Homco 61 LP as set out in the Claims Process Order;

**“Homco 61 Conditions Precedent”** means the conditions precedent to the implementation of the Homco 61 Plan set out in Section 8.3 of the Homco 61 Plan;

**“Homco 61 Creditor”** means any Person asserting a Homco 61 Affected Claim or a Homco 61 Unaffected Claim and may, where the context requires, include the assignee of such Claim or a personal representative, agent, mandatary, trustee, interim receiver, receiver, receiver and manager, liquidator or other Person acting on behalf of such Person;

**“Homco 61 Creditors’ Meeting”** means the meeting or meetings of the Homco 61 Affected Creditors to be called and held concurrently with the HII/Shareco Creditors’ Meeting, pursuant to the Homco 61 Meeting Order, for the purpose of considering and voting upon the Homco 61 Plan and includes any adjournment, postponement or rescheduling of such meeting or meetings;



**“Homco 61 Disputed Claim”** means that portion of a Homco 61 Affected Claim of a Homco 61 Affected Creditor in respect of which a Homco 61 Proof of Claim has been filed in accordance with the Claims Process Order, and which is the subject of negotiation with the Monitor or adjudication before the Court, and that at any particular time, has not been finally determined to be a Homco 61 Proven Claim in whole or in part, or is subject to a revision or disallowance that is contested in accordance with the Claims Process Order, the Homco 61 Meeting Order, or any other Order made in the CCAA Proceedings and as such is not a Homco 61 Proven Claim in whole or in part;

**“Homco 61 Distribution Date”** means the date or dates from time to time set in accordance with the provisions of the Homco 61 Plan at the sole and absolute discretion of the Monitor to effect distributions in respect of the Homco 61 Proven Claims of the Homco 61 Affected Creditors, including the Homco 61 Final Distribution Date but excluding the Homco 61 Initial Distribution Date;

**“Homco 61 Effective Time”** means 12:02 a.m. on the Homco 61 Plan Implementation Date or such other time on such date Homco 61 LP and the Monitor shall determine or as otherwise ordered by the Court but in any event such Homco 61 Effective Time shall occur immediately following the Effective Time under the HII Plan;

**“Homco 61 Employee Priority Claim”** means of the following Claims of Homco 61 Employees and former or inactive employees of Homco 61 LP:

- (a) Claims equal to the amounts that such Homco 61 Employees and former or inactive employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if Homco 61 LP had become bankrupt on the Homco 61 Filing Date; and
- (b) Claims for wages, salaries, commissions or compensation for services rendered by them after the Homco 61 Filing Date and on or before the Homco 61 Plan Implementation Date together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Business during the same period;

**“Homco 61 Employees”** means any and all (i) employees of Homco 61 LP who are actively at work (including full-time, part-time or temporary employees), and (ii) employees of Homco 61 LP who are on approved leaves of absence (including maternity leave, parental leave, short-term disability leave, workers’ compensation and other statutory leaves);

**“Homco 61 Filing Date”** means February 6, 2013;

**“Homco 61 Final Distribution Date”** means such date, after all of the Homco 61 Disputed Claims are finally resolved, that the Monitor shall determine in its sole and absolute discretion or the Court shall otherwise order;

**“Homco 61 Government Priority Claims”** means all Claims of Governmental Authorities in respect of amounts that are outstanding and that are of a kind that could be subject to a demand on or before the Homco 61 Final Distribution Date under:

- (a) subsections 224(1.2) and 224(1.3) of the ITA;
- (b) any provision of the *Canada Pension Plan* or the *Employment Insurance Act* (Canada) that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or employee’s premium or employer’s premium as defined in the *Employment Insurance Act* (Canada), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
  - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
  - (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

**“Homco 61 GP”** means HII (61) GP Inc.;

**“Homco 61 GP Named Directors”** means Jan Schöningh and James F. Miles;

**“Homco 61 Guarantee”** means the guarantee of Shareco’s obligations under the Bond 6 Indenture granted by Homco 61 LP in favour of the Trustee dated July 1, 2005;

**“Homco 61 Initial Distribution Date”** means the Initial Distribution Date under the HII Plan, or such other date as determined by the Monitor in its sole discretion under the Homco 61 Plan;

**“Homco 61 Intercompany Claim”** means the aggregate gross amount owing by HII to Homco 61 LP as reflected in the books and records of HII, in the amount of Cdn\$127,593,683 as at the HII Filing Date;

**“Homco 61 LP”** means Homco Realty Fund (61) Limited Partnership, a limited partnership formed under the NSLPA;

**“Homco 61 Meeting Order”** means the Order, substantially in the form set out in Schedule “A” to the Homco 61 Plan, to be made by the Court under the CCAA that, among other things, sets the date for the Homco 61 Creditors’ Meeting, as same may be amended, restated or varied from time to time;

**“Homco 61 Net Intercompany Claim”** means the amount of Cdn\$62,396,506 being the amount of the Homco 61 Intercompany Claim, after reduction pursuant to set off effected under the HII Plan by the amount of the HII Loan, which amount shall be Homco 61 LP’s deemed Proven Claim against HII under the HII Plan;

**“Homco 61 Note”** means the demand promissory note dated July 4, 2005 evidencing the HII Loan, issued by Homco 61 LP to HII and pledged by HII to Shareco as security for the Shareco Loan and subsequently assigned by Shareco to the Trustee as security for amounts owed by Shareco under the Bond 6 Indenture;

**“Homco 61 Plan”** means this Plan of Compromise filed by Homco 61 LP under the CCAA, as such Homco 61 Plan may be amended, varied or supplemented from time to time by Homco 61 LP as approved by HII, Homco 61 LP, and by the Monitor, all in accordance with the terms hereof;

**“Homco 61 Plan Implementation Date”** means the Business Day or Business Days on which all of the Homco 61 Conditions Precedent have been fulfilled or, to the extent permitted pursuant to the terms and conditions of the Homco 61 Plan, waived, as evidenced by the Monitor’s Homco 61 Plan Implementation Date Certificate to be filed with the Court;

**“Homco 61 Plan Released Party”** means a Person who is released pursuant to Section 7.1 of the Homco 61 Plan, including for greater certainty a Homco 61 Released Party (as defined therein) and a non-Homco 61 Released Party (as defined therein);

**“Homco 61 Plan Sanction Date”** means the date that the Homco 61 Sanction Order is made by the Court;

**“Homco 61 Plan Transactions”** means the steps or transactions considered necessary or desirable to give effect to the transactions contemplated in the Homco 61 Plan, including those set out in Article 6 hereof, which steps and transactions may include one or more incorporations, mergers, amalgamations, consolidations, arrangements, continuations, restructurings, conversions, liquidations, winding ups, dissolutions, transfers, reorganizations, repayments, redemptions, exchanges, cancellations, offsets, compromises, releases, discharges or other transactions;

**“Homco 61 Post-Filing Trade Payables”** means Homco 61 post-Homco 61 Filing Date trade payables (excluding for greater certainty any Tax Claims) that were incurred by Homco 61 LP (i) after the Homco 61 Filing Date and before the Homco 61 Plan Implementation Date, (ii) in the ordinary course of Business, and (iii) in compliance with the Initial Order and other Orders issued in connection with the CCAA Proceedings;

**“Homco 61 Proof of Claim”** means the form to be completed and filed by a Homco 61 Creditor, pursuant to the Claims Process Order, by the applicable Homco 61 Claims Bar Date setting forth its applicable Claim;

**“Homco 61 Proven Claim”** means a Claim of a Homco 61 Affected Creditor as finally determined for voting and distribution purposes in accordance with the Claims Process Order, the Homco 61 Plan and the Homco 61 Meeting Order;

**“Homco 61 Resolution”** means the resolution approving the Homco 61 Plan presented to the Homco 61 Affected Creditors for consideration at the Homco 61 Creditors’ Meeting;

**“Homco 61 Sanction Hearing”** means the Court hearing of Homco 61 LP’s motion for the Homco 61 Sanction Order;

**“Homco 61 Sanction Order”** means the Order to be granted by the Court as contemplated under the Homco 61 Plan which, *inter alia*, approves and sanctions the Homco 61 Plan and the transactions contemplated thereunder, which shall be a Final Order;

**“Homco 61 Unaffected Claims”** means the Excluded Claims, the Homco 61 Employee Priority Claims and the Homco 61 Government Priority Claims;

**“Homco 61 Unaffected Creditors”** means a Creditor who has a Homco 61 Unaffected Claim, but only in respect of and to the extent of such Homco 61 Unaffected Claim;

**“Homco 61 Unsecured Creditors’ Class”** means the sole class of Homco 61 Affected Creditors entitled to vote on the Homco 61 Plan at the Homco 61 Creditors’ Meeting;

**“Homco 61 Voting Claim”** means the amount of the Homco 61 Affected Claim of a Homco 61 Affected Creditor as finally determined for voting purposes in accordance with paragraph 30 of the Claims Process Order, the HII/Shareco Meeting Order and the Homco 61 Meeting Order entitling such Homco 61 Affected Creditor to vote at the Homco 61 Creditors’ Meeting in accordance with the provisions of the HII/Shareco Meeting Order, the Homco 61 Meeting Order, the Homco 61 Plan and the CCAA, and includes, for greater certainty, a Homco 61 Proven Claim;

**“Homco 61 Record Date”** has the meaning ascribed thereto in the Homco 61 Meeting Order;

**“Information Circular”** means the information circular prepared by HII on behalf of HII, Shareco and Homco 61 LP and any schedules or appendices thereto (including the HII Plan and the Homco 61 Plan), as may be amended, restated, or varied from time to time, together with any other documents required by the Court in connection with the calling and holding of the HII/Shareco Creditors’ Meeting and the Homco 61 Creditors’ Meeting to consider and approve the HII Plan and the Homco 61 Plan respectively;

**“ITA”** means the *Income Tax Act* (Canada), R.S.C 1985, c. 1 (5<sup>th</sup> Supp.) as amended and any regulations thereunder;

**“Letter of Instruction”** means a form to be completed by the Homco 61 Affected Creditors that is to be delivered by such Homco 61 Affected Creditors to the Monitor in accordance with the Homco 61 Plan, which form shall be the same as the form of Letter of Instruction under the HII Plan;

**“Monitor’s Homco 61 Plan Completion Certificate”** means the certificate substantially in the form attached as Schedule “C” to the Homco 61 Sanction Order to be filed by the Monitor with the Court;

**“Monitor’s Homco 61 Plan Implementation Date Certificate”** means the certificate substantially in the form appended as Schedule “A” to the Homco 61 Sanction Order to be filed by the Monitor with the Court declaring that all of the Homco 61 Conditions Precedent to implementation of the Homco 61 Plan have been satisfied or waived in accordance with the Homco 61 Sanction Order;

**“Notice of Final Distribution”** means a notice to Homco 61 Affected Creditors to be published at least thirty (30) days in advance of the Homco 61 Final Distribution Date in La Presse (French version), the Globe and Mail, the Calgary Herald and the Halifax Chronicle Herald (English version) and De Volkskrant, de Telegraaf and the NRC (all published in the Netherlands) (Dutch version), notifying Homco 61 Affected Creditors of the Homco 61 Final Distribution Date, substantially in the form of Schedule “B” to the Homco 61 Sanction Order;

**“Order”** means any order of the Court, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

**“Person”** is to be broadly interpreted and includes an individual, a partnership, a corporation, a trust, a joint venture, any Governmental Authority, any trade union, any employee association or any incorporated or unincorporated entity or association of any nature and the executors, administrators, or other representatives of an individual in such capacity;

**“Principal Claim”** has the meaning ascribed thereto in Section 3.10;

**“Required Majority”** means a majority in number of Homco 61 Affected Creditors who represent at least two-thirds in value of the Homco 61 Voting Claims of such Homco 61 Affected Creditors who actually vote on the Homco 61 Resolution (in person or by proxy) at the Homco 61 Creditors’ Meeting;

**“Reserves”** means the Cash Reserves and the Disputed Claims (Newco Shares) Reserve;

**“Shareco Loan”** means the loan by Shareco to HII as evidenced by the demand promissory note dated July 4, 2005 issued by HII to Shareco;

**“Tax”** means any and all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer, health, excise, franchise, real property, and personal property taxes and other taxes, customs, duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, penalties, fines, fees, other charges and additions with respect thereto;

**“Tax Claims”** means claims of any Taxing Authorities against Homco 61 LP and Homco 61 GP arising from and after the Homco 61 Plan Implementation Date;

**“Tax Obligation”** means any amount of Tax owing by a Person to a Taxing Authority;

**“Tax Statutes”** means section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act*, (Canada) R.S.C c. E-15 as amended and any regulations thereunder, the *Alberta Corporate Tax Act* and section 14 of the *Tax Administration Act* (Quebec), or any other similar, federal, provincial or territorial tax legislation;

**“Taxing Authorities”** means anyone of Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof and any Canadian or non-Canadian government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power, and **“Taxing Authority”** means any one of the Taxing Authorities, as well as any corresponding taxing authorities of a foreign jurisdiction;

**“Trustee”** means Stichting Homburg Bonds, formerly Stichting Homburg Mortgage Bond, in its capacity as trustee under the Bond 6 Indenture;

**“Withholding Obligation”** shall have the meaning ascribed thereto in Section 5.6.

## **1.2 Certain Rules of Interpretation**

For the purposes of the Homco 61 Plan:

- (a) any reference in the Homco 61 Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the Homco 61 Plan to an Order or an existing document or exhibit filed or to be filed means such Order, document or exhibit as it may have been or may be amended, modified, or supplemented;

- (c) unless otherwise specified, all references herein to (i) currency and to “\$” or “Cdn\$” are to Canadian dollars; and (ii) “EUR” are to Euros, except as otherwise indicated;
- (d) the division of the Homco 61 Plan into “Articles” and “Sections” and the insertion of a Table of Contents are for convenience of reference only and do not affect the construction or interpretation of the Homco 61 Plan, nor are the descriptive headings of “Articles” and “Sections” or otherwise intended as complete or accurate descriptions of the content thereof;
- (e) references in the Homco 61 Plan to “Articles”, “Sections”, “Subsections” and “Schedules” are references to Articles, Sections, Subsections and Schedules of or to the Homco 61 Plan;
- (f) the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of the Homco 61 Plan or a Schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (g) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (h) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (i) the terms “the Homco 61 Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to the Homco 61 Plan and not to any particular “article”, “section” or other portion of the Homco 61 Plan and include any documents supplemental hereto; and
- (j) the word “or” is not exclusive.

### **1.3 Time**

For purposes of the Homco 61 Plan, unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean prevailing local time in Montreal, Quebec, Canada, unless otherwise stipulated.

#### **1.4 Date and Time for any Action**

For purposes of the Homco 61 Plan:

- (a) In the event that any date on which any action is required to be taken under the Homco 61 Plan by any Person is not a Business Day, that action shall be required to be taken on the next succeeding day which is a Business Day, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day; and
- (b) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day.

#### **1.5 Successors and Assigns**

The Homco 61 Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, liquidators, receivers and trustees in bankruptcy, successors and assigns of any Person or party named or referred to in the Homco 61 Plan.

#### **1.6 Governing Law**

The Homco 61 Plan shall be governed by and construed in accordance with the laws of the Province of Quebec and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Homco 61 Plan and all proceedings taken in connection with the Homco 61 Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

#### **1.7 Governing Language**

In the event of any conflict, inconsistency, ambiguity or difference between the English version of the Homco 61 Plan and any translations thereof, the English version shall govern and be paramount, and the applicable provision in the translation thereof shall be deemed to be amended to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

#### **1.8 Schedules**

The following are the Schedules to the Homco 61 Plan, which are incorporated by reference into the Homco 61 Plan and form a part of it:

Schedule "A"                      Homco 61 Meeting Order



**ARTICLE 2**  
**PURPOSE AND EFFECT OF THE HOMCO 61 PLAN**

**2.1 Purpose and Background**

The purpose of the Homco 61 Plan is to effect a compromise, settlement and payment of all Homco 61 Affected Claims as finally determined for voting and distribution purposes pursuant to the Claims Process Order, the HII/Shareco Meeting Order, the Homco 61 Meeting Order and the Homco 61 Plan, in the expectation that all Persons with an economic interest in HII, Shareco and Homco 61 LP will derive a greater benefit from the implementation of the HII Plan and the Homco 61 Plan than would result from a bankruptcy of the Businesses of HII, Shareco and Homco 61 LP in their entirety, with such compromise, settlement and payment of Homco 61 Affected Claims to be effected on a coordinated basis for administrative efficiency with the compromise, settlement and payment of Affected Claims under the HII Plan. The circumstances and events leading up to the Homco 61 Plan are described in the Information Circular circulated to Homco 61 Affected Creditors prior to and in connection with the Homco 61 Creditors' Meeting, in accordance with the Homco 61 Meeting Order.

**2.2 Persons Affected**

The Homco 61 Plan provides for the compromise of Homco 61 Affected Claims. The Homco 61 Plan will become effective at the Homco 61 Effective Time on the Homco 61 Plan Implementation Date. On the Homco 61 Plan Implementation Date, each Homco 61 Affected Claim will be fully and finally compromised, released, settled and discharged under the Homco 61 Plan. The Homco 61 Plan shall be binding on and enure to the benefit of Homco 61 LP, the Homco 61 Affected Creditors, the Homco 61 Plan Released Parties and all other Persons named or referred to in, or subject to, the Homco 61 Plan.

**2.3 Persons Not Affected**

For greater certainty, the Homco 61 Plan does not affect the Homco 61 Unaffected Creditors with respect to and to the extent of their Homco 61 Unaffected Claims. Nothing in the Homco 61 Plan shall affect Homco 61 LP's rights and defences, both legal and equitable, with respect to any Homco 61 Unaffected Claims including, but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Homco 61 Unaffected Claims.

**2.4 Equity Claims**

All Persons holding Equity Claims in respect of Homco 61 LP shall not be entitled to vote at or attend the Homco 61 Creditors' Meeting, and shall not receive a distribution under the Homco 61 Plan or otherwise receive anything in respect of such Equity Claims. At the Homco 61 Effective Time on the Homco 61 Plan Implementation Date, all Equity Claims in respect of Homco 61 LP shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred.

## **2.5 Homco 61 Affected Creditors (including Bond 6 Claim Holders) and the Homco 61 Intercompany Claim**

- (a) The treatment of the Homco 61 Affected Creditors, including the Bond 6 Claim Holders, under the Homco 61 Plan is conditioned on and subject to approval of the Homco 61 Plan by the Required Majority of the Homco 61 Affected Creditors, and the HII Plan by the Required Majority, and in each case by the Court.
- (b) In the event that either the HII Plan is not approved by the Required Majority of Affected Creditors with Proven Claims and the Court, or the Homco 61 Plan is not approved by the Required Majority of the Homco 61 Affected Creditors and the Court, then the Proven Claims of Homco 61 LP for both voting and distribution purposes under the HII Plan, and the Homco 61 Affected Creditors under the Homco 61 Plan, shall be determined by the Monitor and/or the Court; provided however that the Bond 6 Claim for voting purposes under the HII Plan shall not be redetermined, and the Proven Claim of Homco 61 LP for voting and distribution purposes under the HII Plan shall be determined by the Monitor and/or the Court.
- (c) In the event that both the HII Plan is approved by the Required Majority of the Affected Creditors and the Court, and the Homco 61 Plan is approved by the Required Majority of Homco 61 Affected Creditors and the Court, then each Homco 61 Affected Creditor with a Homco 61 Affected Creditor HII Claim (excluding Bond 6 Claim Holders as described below) that has a Homco 61 Proven Claim, shall have a Proven Claim against Homco 61 LP for the full amount of its Homco 61 Affected Creditor Claim.
- (d) The aggregate Proven Claim of the Bond 6 Claim Holders for voting and distribution purposes under this Homco 61 Plan shall be the full amount of the Bond 6 Homco 61 Claim in accordance with and as provided in the HII/Shareco Meeting Order and the Homco 61 Meeting Order.
- (e) At the Effective Time on the Plan Implementation Date the Homco 61 Affected Creditors Claims (including the Bond 6 Homco 61 Claim) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred.

### **ARTICLE 3**

#### **CLASSIFICATION OF HOMCO 61 CREDITORS, HOMCO 61 VOTING CLAIMS AND RELATED MATTERS**

##### **3.1 Classification of Homco 61 Creditors**

For the purposes of considering, voting on and receiving distributions under the Homco 61 Plan, the Homco 61 Affected Creditors shall constitute a single class, the “**Homco 61 Unsecured Creditors’ Class**”.

### **3.2 Homco 61 Affected Claims**

Each Homco 61 Affected Creditor will be entitled to vote its Homco 61 Voting Claim at the Homco 61 Creditors' Meeting in respect of the Homco 61 Plan and shall be entitled to receive its respective Homco 61 Affected Creditors' Entitlement provided for under and pursuant to the Homco 61 Plan.

### **3.3 Homco 61 Unaffected Claims**

Homco 61 Unaffected Claims shall not be compromised under the Homco 61 Plan. No holder of a Homco 61 Unaffected Claim shall:

- (a) be entitled to vote on the Homco 61 Plan or attend at any Homco 61 Creditors' Meeting; or
- (b) be entitled to or receive any Homco 61 Affected Creditors' Entitlement in respect of such Homco 61 Unaffected Claims.

### **3.4 Priority Claims**

The Homco 61 Employee Priority Claims and the Homco 61 Government Priority Claims, if any, shall be paid on or after the Homco 61 Plan Implementation Date from the Administrative Reserve under the HII Plan pursuant to and in accordance with Section 5.1 of the Homco 61 Plan, the Homco 61 Sanction Order and the CCAA.

### **3.5 Homco 61 Creditors' Meeting**

The Homco 61 Creditors' Meeting shall be held in accordance with the Homco 61 Plan, the Claims Process Order, the Homco 61 Meeting Order and any further Order of the Court. The only Persons entitled to attend the Homco 61 Creditors' Meeting shall be representatives of Homco 61 LP and its legal counsel and advisors, the Monitor and its legal counsel, the Trustee and its legal counsel and advisors, and all other Persons, including the holders of proxies, entitled to vote at the Homco 61 Creditors' Meeting and their legal counsel and advisors.

### **3.6 Voting**

Each Homco 61 Affected Creditor in the Homco 61 Unsecured Creditors' Class who is entitled to vote at the Homco 61 Creditors' Meeting, pursuant to and in accordance with the Claims Process Order, the HII/Shareco Meeting Order, the Homco 61 Meeting Order, the Homco 61 Plan and the CCAA, shall be entitled to one vote equal to the dollar value of its Homco 61 Affected Claim determined as a Homco 61 Voting Claim. Bond 6 Claim Holders who have beneficial ownership of a Homco 61 Voting Claim as of the Homco 61 Voting Record Date shall be entitled to vote on the Homco 61 Plan at the Homco 61 Creditors' Meeting pursuant to and in accordance with the Homco 61 Meeting Order; and

### **3.7 Procedure for Valuing Homco 61 Voting Claims**

The procedure for valuing Homco 61 Voting Claims and resolving disputes and entitlements to voting is set forth in the Claims Process Order, the HII/Shareco Meeting Order, the HII Plan, the Homco 61 Meeting Order, the Homco 61 Plan and the CCAA. Homco 61 LP and the Monitor shall have the right to seek the assistance of the Court in valuing any Homco 61 Voting Claim in accordance with the Claims Process Order, the HII/Shareco Meeting Order, the HII Plan, the Homco 61 Meeting Order and the Homco 61 Plan, if required, and to ascertain the result of any vote on the Homco 61 Plan.

### **3.8 Approval by Homco 61 Creditors**

In order to be approved, the Homco 61 Plan must receive an affirmative vote in the Required Majority of the Homco 61 Unsecured Creditors' Class.

### **3.9 Guarantees and Similar Covenants**

No Person who has a Claim under a Guarantee, surety, indemnity or similar covenant in respect of any Claim which is compromised under the Homco 61 Plan (such compromised Claim being the "Principal Claim"), or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Principal Claim shall:

- (a) be entitled to any greater rights as against Homco 61 than the Person holding the Principal Claim;
- (b) be entitled to vote on the Homco 61 Plan to the extent that the Person holding the Principal Claim is voting on the Homco 61 Plan; or
- (c) be entitled to receive any distribution under the Homco 61 Plan to the extent that the Person holding the Principal Claim is receiving a distribution.

For greater certainty, nothing in this Section 3.9 shall affect the rights of Bond 6 Claim Holders to advance a Claim against Homco 61 LP pursuant to the Homco 61 Guarantee under the Homco 61 Plan or to advance the Bond 6 HII Deficiency Claim against HII under the HII Plan.

## **ARTICLE 4 THE HII HOMCO 61 DISTRIBUTION**

### **4.1 The HII Homco 61 Distribution**

The principal asset of Homco 61 LP is Homco's 61 LP's entitlement to the HII Homco 61 Distribution based on its Homco 61 Net Intercompany Claim. The Homco 61 Affected Creditors with Homco 61 Proven Claims shall receive their *pro rata* share of the HII Homco 61 Distribution in full satisfaction of such Homco 61 Proven Claims and on the Homco 61 Plan Implementation Date all Homco 61 Affected Claims will be affected and compromised, settled, released and discharged in accordance with the terms of the Homco 61 Plan, the Homco 61

Sanction Order and the CCAA. For greater certainty, the Homco 61 Affected Creditors with Homco 61 Proven Claims will receive their respective *pro rata* share of Homco 61's Pro Rata Share of the Newco Equity Pool, the Cash Pool and the Asset Realization Cash Pool as determined under the HII Plan.

#### **4.2 Administrative Convenience**

For administrative convenience the Monitor shall not be required under the Homco 61 Plan to establish any cash pools or related cash or non-cash reserves in connection with the administration of Homco 61 Affected Claims and the determination of Homco 61 Proven Claims as the administration and determination of such Claims is to be effected through cash pools, related Cash and non-Cash reserves established under the HII Plan.

### **ARTICLE 5 DISTRIBUTIONS AND PAYMENTS TO HOMCO 61 AFFECTED CREDITORS**

#### **5.1 Distribution Mechanics**

The Monitor shall administer and finally determine the Homco 61 Affected Claims of Homco 61 Affected Creditors under and in accordance with the Claims Process Order and Article 8 and Article 9 of the HII Plan, as if the Homco 61 Affected Creditors were Affected Creditors of HII and Article 8 and Article 9 of the HII Plan applied *mutatis mutandis* to the Homco 61 Affected Creditors, with such changes as necessary to apply such Articles to the Homco 61 Affected Creditors only. In particular, the Monitor shall:

- (a) utilize the Disputed Claims (Cash) Reserve, the Disputed Claims (Asset Realization) Reserve and the Disputed Claims (Newco Shares) Reserve in effecting the administration and determination of Homco 61 Affected Claims; and
- (b) allocate the costs of such administration of Homco 61 Affected Claims to the Homco 61 Administrative Reserve Costs, provide for such costs in the Administrative Reserve under the HII Plan and deduct such costs from the HII Homco 61 Distribution, including for greater certainty:
  - (i) all amounts on account of Homco 61 Employee Priority Claims;
  - (ii) all amounts on account of Homco 61 Government Priority Claims; and
  - (iii) all amounts on account of the Homco 61 Post-Filing Trade Payables.

To the extent of an inconsistency between the provisions of Article 8 and Article 9 of the HII Plan and the Homco 61 Plan, the provisions of the Homco 61 Plan shall govern in relation to the administration and determination of the Homco 61 Proven Claims.

## **5.2 Currency**

Unless specifically provided for in the Homco 61 Plan or the Homco 61 Sanction Order, for the purposes of voting or distribution under the Plan, a Claim shall be denominated in Canadian dollars and all payments and distributions to the Homco 61 Affected Creditors on account of their Homco 61 Proven Claims shall be made in Canadian dollars. Any Claim in a currency other than Canadian dollars must be converted to Canadian dollars, and such amount shall be regarded as having been converted at the noon spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian dollars as at the Homco 61 Filing Date, which rate is Cdn\$1.3473: EUR1.0000, and Cdn \$0.9960: US\$1.

## **5.3 Interest and Fees**

Interest shall not accrue or be paid on Homco 61 Affected Claims after the Homco 61 Filing Date, and no holder of a Homco 61 Affected Claim shall be entitled to interest accruing nor to fees and expenses incurred in respect of an Affected Claim on or after the Homco 61 Filing Date and any Claims in respect of interest accruing or fees and expenses incurred on or after the Homco 61 Filing Date shall be deemed to be forever extinguished and released.

## **5.4 Assignment of Claims for Voting and Distribution Purposes Prior to the Homco 61 Creditors' Meeting**

Subject to any restrictions contained in Applicable Laws, a Homco 61 Affected Creditor may transfer or assign the whole of its Homco 61 Claim prior to the Homco 61 Creditors' Meeting provided that Homco 61 LP shall not be obliged to deal with any such transferee or assignee as a Homco 61 Affected Creditor in respect thereof, including allowing such transferee or assignee to vote at the Homco 61 Creditors' Meeting, unless and until (i) actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by Homco 61 LP and the Monitor prior on or prior to the Homco 61 Record Date or (ii) the name of such transferee or assignee appears as of the HII/Shareco Record Date as the holder of such transferred or assigned Voting Claim in accordance with the Homco 61 Meeting Order. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Process Order and the Homco 61 Meeting Order constitute a Homco 61 Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor in respect of such Homco 61 Claim. For greater certainty, partial transfers or assignments of Homco 61 Voting Claims shall not be recognized by Homco 61 LP or the Monitor.

## **5.5 Assignment of Claims for Distribution Purposes After the Homco 61 Creditors' Meeting**

Subject to any restrictions contained in Applicable Laws, a Homco 61 Affected Creditor may transfer or assign the whole of its Homco 61 Claim after the Homco 61 Creditors' Meeting, provided that the Monitor shall not be obliged to make distributions to any such transferee or assignee or otherwise deal with such transferee or assignee as a Homco 61 Affected Creditor in respect thereof, unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment and a duly completed and executed Letter of Instruction has been received by Homco 61 LP and the Monitor; thereafter, such transferee or

assignee shall, for all purposes in accordance with the Claims Process Order, the Homco 61 Meeting Order and the Homco 61 Plan constitute a Homco 61 Affected Creditor and shall be bound by notices given and steps taken in respect of such Claim. For greater certainty, partial transfers or assignments of Claims shall not be recognized by Homco 61 LP or the Monitor.

## **5.6 Tax Matters**

- (a) Any terms and conditions of any Homco 61 Affected Claims which purport to deal with the ordering of or grant priority of payment of principal, interest, penalties or other amounts shall be deemed to be void and ineffective (for greater certainty without any impact on any inter-lender arrangements).
- (b) All distributions made by the Monitor pursuant to this Homco 61 Plan shall be first in consideration for the outstanding principal amount of such Homco 61 Affected Claims and secondly in consideration for accrued and unpaid interest and penalties, if any, which form part of such Claims. Notwithstanding any provisions of the Homco 61 Plan, each Homco 61 Affected Creditor that is to receive a distribution pursuant to the Homco 61 Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax Obligations imposed by any Taxing Authority on account of such distribution.
- (c) The Monitor shall be entitled to deduct and withhold from any distribution, payment or consideration otherwise payable to any Homco 61 Affected Creditor or to any Person on behalf of any Homco 61 Affected Creditor such amounts (a “**Withholding Obligation**”) if the Monitor is required to deduct and withhold with respect to such payment under the ITA, or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded.
- (d) To the extent that amounts are so withheld or deducted and paid over to the applicable Taxing Authority, such withheld or deducted amounts shall be treated for all purposes of the Homco 61 Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of a holder of a Homco 61 Proven Claim pursuant to the Homco 61 Plan unless and until such holder has made arrangements satisfactory to the Monitor for the payment and satisfaction of any Withholding Obligations imposed on the Monitor by any Taxing Authority.

## **ARTICLE 6**

### **HOMCO 61 PLAN IMPLEMENTATION DATE TRANSACTIONS**

#### **6.1 Corporate Authorizations**

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Homco 61 Plan involving corporate action of Homco 61 LP by the Homco 61 GP will occur and be effective as of the Homco 61 Plan Implementation Date, and

will be authorized and approved under the Homco 61 Plan and by the Court, where appropriate, as part of the Homco 61 Sanction Order, in all respects and for all purposes without any requirement of further action by partners of Homco 61 LP or the shareholders, directors or officers of the Homco 61 GP. All necessary approvals to take actions shall be deemed to have been obtained from such partners, directors or officers, including the deemed passing of any resolutions under the Homco 61 Limited Partnership Agreement of Homco 61 LP.

## **6.2 Homco 61 Plan Implementation Date Transactions**

Subject to Section 6.3, the following transactions, steps, offsets, compromises, releases and discharges to be effected in the implementation of the Homco 61 Plan (the “**Homco 61 Plan Transactions**”) shall occur, and be deemed to have occurred sequentially in the following order without any further act or formality, on the Homco 61 Plan Implementation Date beginning at the Homco 61 Effective Time:

- (a) Treatment of Homco 61 Intercompany Claim: HII shall, pursuant to the HII Plan, set off the amount of the HII Loan against the amount of the Homco 61 Intercompany Claim. The unpaid balance owing on the Homco 61 Intercompany Claim shall be the Homco 61 Net Intercompany Claim, which shall constitute the sole Proven Claim of Homco 61 LP for distribution purposes entitling Homco 61 LP to the HII Homco 61 Distribution and for greater certainty Homco 61 LP shall have no other claim against HII including by subrogation or otherwise;
- (b) Directors and Officers: The Directors of the Homco 61 GP shall and shall be deemed to resign and without requirement of further action on the part of such Directors;
- (c) Payments by Monitor: The Monitor shall pay the Homco 61 Administrative Reserve Costs from the Administrative Reserve under the HII Plan on or after the Homco 61 Plan Implementation Date pursuant to the HII/Shareco Sanction and Vesting Order, the Homco 61 Sanction Order and the CCAA; and
- (d) Compromise and Release: The compromises with the Homco 61 Affected Creditors and the Release of the Homco 61 Plan Released Parties referred to in Article 7 shall become effective in accordance with the Homco 61 Plan.

## **6.3 Homco 61 Plan Transactions**

Homco 61 GP on behalf of Homco 61 LP shall take actions as may be necessary or appropriate to effect the Homco 61 Plan Transactions as set forth in the Homco 61 Plan. Such actions may include, without limitation: (i) the execution and delivery of appropriate articles, agreements or other documents of incorporation, merger, amalgamation, consolidation, arrangement, continuation, restructuring, exchange, conversion, liquidation, winding-up, dissolution, transfer, reorganization, repayments, cancellations, discharges, or other transactions containing terms that are consistent with the terms of the Homco 61 Plan; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, including, where applicable, with respect to the assumption of liabilities upon the transfer or assignment of assets



or liquidation or winding-up of Homco 61 LP, Guarantee, or delegation of any property, right, privilege, liability, duty, or obligation on terms consistent with the terms of the Homco 61 Plan, in each case without the need to obtain any consent by any Person; (iii) the filing of appropriate articles, agreements, or other documents of incorporation, merger, amalgamation, consolidation, arrangement, continuation, restructuring, exchange, conversion, liquidation, winding-up, dissolution, transfer, reorganization, repayments, cancellations, discharges, or other transactions with the appropriate Governmental Authorities under Applicable Law; (iv) the determination of the manner and the sequence in which the Homco 61 Affected Claims are settled, compromised, or otherwise dealt with; (v) the modification of any Plan Transaction or the determination of the manner, timing and/or sequence in which such Plan Transactions will be effected or deemed to be effected; and (vi) all other actions that Homco 61 LP may determine are necessary or appropriate to give effect to the Homco 61 Plan Transactions, including the making of filings or recordings in connection with the relevant Homco 61 Plan Transactions. Homco 61 LP shall be permitted to implement certain of the Homco 61 Plan Transactions after the Homco 61 Plan Implementation Date as contemplated in the Homco 61 Plan. The form of each Homco 61 Plan Transaction shall, where applicable, be determined by Homco 61 LP and its successors party to any Homco 61 Plan Transaction, and shall be approved by the Monitor; provided, however, that Homco 61 LP reserves the right to undertake transactions in lieu of or in addition to such Homco 61 Plan Transactions as Homco 61 LP may deem necessary or appropriate under the circumstances and as approved by the Monitor. Notwithstanding the foregoing or any other provision of the Homco 61 Plan, the implementation of any of the Homco 61 Plan Transactions or other transactions undertaken in accordance with this Section shall not affect the distributions under the Homco 61 Plan and any such Homco 61 Plan Transactions or other transactions that are material shall be filed with the Court for approval.

## **ARTICLE 7 HOMCO 61 PLAN RELEASES**

### **7.1 Homco 61 Plan Releases**

- (a) On the Homco 61 Plan Implementation Date, Homco 61 LP, Homco 61 GP and their respective employees, legal counsel and agents, and the Homco 61 GP Named Directors (being herein referred to individually as a “**Homco 61 Plan Released Party**”) shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Homco 61 Creditor, Homco 61 Affected Creditor or other Person may be entitled to assert, including any and all Claims in respect of the payment and receipt of proceeds and statutory liabilities of the Homco 61 GP Named Directors, the Homco 61 Employees and any alleged fiduciary or other duty (whether such employees are acting as a Homco 61 GP Named Directors member or employee), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty,

responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Homco 61 Plan Implementation Date and the date on which actions are taken to implement the Homco 61 Plan that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the Homco 61 Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by the Claims Process Order and all Claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce Homco 61 LP's obligations under the Homco 61 Plan or any related document), all to the full extent permitted by Applicable Law, provided that nothing herein shall release or discharge (A) any Homco 61 Released Party if such Homco 61 Plan Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed criminal, fraudulent or other wilful misconduct or (B) the Homco 61 GP Named Directors with respect to matters set out in section 5.1(2) of the CCAA.

- (b) On the Homco 61 Plan Implementation Date, the Trustee, the Monitor, Deloitte and their respective directors (including current directors), officers, employees, advisors, legal counsel and agents (being herein referred to individually as a “**Non-Homco 61 Plan Released Party**”, and together with the Homco 61 Plan Released Parties, the “**Homco 61 Plan Released Parties**”) shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Homco 61 Creditor, Homco 61 Affected Creditor or other Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Homco 61 Plan Implementation Date and the date on which actions are taken to implement the Homco 61 Plan that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the HII Plan (as it pertains to the administration and final determination of Homco 61 Affected Claims), the Homco 61 Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by the Claims Process Order and all Claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce Homco 61 LP's obligations under the Homco 61 Plan or any related document), all to the full extent permitted by Applicable Law, provided that nothing herein shall release or discharge (A) any Non-Homco 61 Plan Released Party if such Non-Homco 61 Plan Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed criminal, fraudulent or other wilful misconduct, or (B) the Trustee or its directors or officers, employees, advisors, legal counsel and agents

retained or employed prior to the Homco 61 Filing Date for any Claims in existence or relating to any period prior to the Homco 61 Filing Date.

- (c) The Homco 61 Sanction Order will enjoin the prosecution, whether directly, derivatively or otherwise, of any Claim, obligation, suit judgment, damage, demand, debt, right, cause of action, liability or interest released, discharged, compromised or terminated pursuant to the Homco 61 Plan.
- (d) Nothing in this Plan shall be interpreted as to restrict the application of Section 21 of the CCAA.

## **ARTICLE 8 COURT SANCTION, HOMCO 61 CONDITIONS PRECEDENT AND IMPLEMENTATION**

### **8.1 Application for Homco 61 Sanction Order**

If the Required Majority of the Homco 61 Affected Creditors approves the Homco 61 Plan, Homco 61 LP shall apply for the Homco 61 Sanction Order on or before the date set in the Homco 61 Meeting Order for the hearing of the Homco 61 Sanction Order or such later date as the Court may set. The Homco 61 Sanction Order shall not become effective until the Homco 61 Effective Time on the Homco 61 Plan Implementation Date.

### **8.2 Homco 61 Sanction Order**

The Homco 61 Sanction Order shall, among other things:

- (a) declare that (i) the Homco 61 Plan has been approved by the Required Majority of Homco 61 Affected Creditors with Homco 61 Proven Claims in conformity with the CCAA; (ii) Homco 61 LP has complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects; (iii) the Court is satisfied that Homco 61 LP has not done or purported to do anything that is not authorized by the CCAA; and (iv) the Homco 61 Plan and the Homco 61 Plan Transactions contemplated thereby are fair and reasonable;
- (b) declare that as of the Homco 61 Effective Time, the Homco 61 Plan and all associated steps, compromises, transactions, arrangements, and releases effected thereby are approved, binding and effective upon Homco 61 LP, Homco 61 GP, all Homco 61 Affected Creditors, the Homco 61 Plan Released Parties and all other Persons and Parties affected by the Homco 61 Plan as of the Homco 61 Effective Time;
- (c) authorize the Monitor to perform its duties and functions and fulfil its obligations under the Homco 61 Plan to facilitate the implementation thereof;
- (d) declare that the Homco 61 Plan Transactions to be taken and the compromises and releases to be effected on the Homco 61 Plan Implementation Date are

deemed to occur and to be effected in the sequential order contemplated by Section 6.2 of the Homco 61 Plan on the Homco 61 Plan Implementation Date, beginning at the Homco 61 Effective Time or at such other time, times, or manner as may be set forth in the Homco 61 Plan;

- (e) compromise, discharge and release the Homco 61 Plan Released Parties from any and all Homco 61 Affected Claims of any nature in accordance with the Homco 61 Plan, and declare that the ability of any Person to proceed against the Homco 61 Released Parties in respect of or relating to any Homco 61 Affected Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Homco 61 Affected Claims be permanently stayed, subject only to the right of Homco 61 Affected Creditors to receive distributions pursuant to the Homco 61 Plan in respect of their Homco 61 Affected Claims;
- (f) authorize and direct the Monitor to administer and finally determine the Homco 61 Affected Claims of Homco 61 Affected Creditors and to manage the distribution of the HII Homco 61 Distribution directly to such Homco 61 Affected Creditors with Homco 61 Proven Claims in each case under and in accordance with the Claims Process Order, Article 8 and Article 9 of the HII Plan, and Article 5 of the Homco 61 Plan as if the Homco 61 Affected Creditors were Affected Creditors of HII;
- (g) declare that the Monitor shall not be required to establish any cash pools or related cash or non-cash reserves in connection with the administration of Homco 61 Affected Claims, the determination of Homco 61 Proven Claims and the management of the distribution of the HII Homco 61 Distribution directly to such Homco 61 Affected Creditors with Homco 61 Proven Claims and authorize the Monitor to utilize the Cash Pool, the Asset Realization Cash Pool and the Reserves under the HII Plan to administer the Homco 61 Affected Claims and determine the Homco 61 Proven Claims;
- (h) declare that any Homco 61 Affected Claim for which a Homco 61 Proof of Claim has not been filed by the Homco 61 Claims Bar Date in accordance with the Claims Process Order shall be forever barred and extinguished;
- (i) declare that the Stay of Proceedings and protections under the Initial Order be extended to, and including, the Homco 61 Final Distribution Date and, in addition to the parties currently protected thereunder, shall extend to the benefit of the Homco 61 Plan Released Parties;
- (j) deem the Homco 61 GP Named Directors to have resigned without replacement on the Homco 61 Effective Time on the Homco 61 Plan Implementation Date;
- (k) declare that all distributions to and payments by or at the direction of the Monitor, in each case on behalf of Homco 61 LP, to the Homco 61 Affected Creditors with Homco 61 Proven Claims under the Homco 61 Plan are for the account of Homco

61 LP and the fulfillment of its obligations under the Homco 61 Plan including to make distributions to Homco 61 Affected Creditors with Homco 61 Proven Claims;

- (l) declare that the Monitor shall not incur any liability under the Tax Statutes in respect of its making any payments, ordered or permitted under the Homco 61 Sanction Order and is thereby forever released, remised and discharged from any Claims against it under the Tax Statutes or otherwise at law, arising in respect of payments made under the Homco 61 Plan and the Homco 61 Sanction Order and any Claims of such nature are thereby forever barred;
- (m) declare that in no circumstances will the Monitor have any liability for Homco 61 LP's tax liabilities regardless of how or when such liability may have arisen;
- (n) approve the form of Monitor's Homco 61 Plan Implementation Date Certificate, and declare that upon the satisfaction or waiver of the Homco 61 Conditions Precedent to implementation of the Homco 61 Plan set out in Section 8.3, the Monitor shall file the Monitor's Homco 61 Plan Implementation Date Certificate;
- (o) approve the form of Monitor's Homco 61 Plan Completion Certificate, and declare that the Monitor, in its capacity as Monitor, upon completion of its duties to effect distributions in accordance with the Homco 61 Plan, shall file with the Court the Monitor's Homco 61 Plan Completion Certificate stating that all of its duties under the Homco 61 Plan and the Orders have been completed and thereupon, Deloitte shall be deemed to be discharged from its duties as Monitor of Homco 61 LP in the CCAA Proceedings and released of all claims relating to its activities as Monitor of Homco 61 LP;
- (p) approve the Monitor's form of Notice of Final Distribution;
- (q) authorize the Monitor (at its sole election) to seek an order of any court of competent jurisdiction to recognize the Homco 61 Plan and the Homco 61 Sanction Order and to confirm the Homco 61 Plan and the Homco 61 Sanction Order as binding and effective in any appropriate foreign jurisdiction; and
- (r) declare that Homco 61 LP and the Monitor may apply to the Court from time to time for advice and direction in respect of any matters arising from or under the Homco 61 Plan, including without limitation regarding the distribution mechanics thereunder and under the HII Plan and the Homco 61 Plan Transactions.

### **8.3 Homco 61 Conditions Precedent to Implementation of the Homco 61 Plan**

The implementation of the Homco 61 Plan shall be conditional upon the fulfilment or waiver, where applicable, of the following conditions precedent on or before the Homco 61 Effective Time or the date specified therefor (collectively the “**Homco 61 Conditions Precedent**”):

- (a) The HII/Shareco Meeting Order shall have been granted by the Court;
- (b) The HII Plan shall have been approved by the Required Majority (as defined in the HII Plan) at the HII/Shareco Creditors’ Meeting, as well as the Court pursuant to the HII/Shareco Sanction and Vesting Order, and that Plan Implementation Date under the HII Plan shall have occurred;
- (c) Homco 61 LP shall have satisfied its Homco 61 Post-Filing Trade Payables in the ordinary course or provision shall have been made in respect thereof as a Homco 61 Administrative Reserve Cost in the Administrative Reserve under the HII Plan to the satisfaction of the Monitor;
- (d) All material consents, declarations, rulings, certificates or approvals of or by any Governmental Authority as may be considered necessary by Homco 61 LP and the Monitor in respect of the Homco 61 Plan Transactions shall have been obtained;
- (e) The Homco 61 Plan shall have been approved by the Required Majority of the Homco 61 Affected Creditors in the Homco 61 Unsecured Creditors’ Class at the Homco 61 Creditors’ Meeting; and
- (f) The Homco 61 Sanction Order shall have been granted by the Court in form satisfactory to Homco 61 LP and the Monitor, and for greater certainty shall be in full force and effect and not reversed, stayed, varied or amended.

### **8.4 Monitor’s Certificate**

Upon delivery of written notice from Homco 61 LP of the fulfilment or waiver of the Homco 61 Conditions Precedent to implementation of the Homco 61 Plan as set out in Section 8.3 of the Homco 61 Plan, the Monitor shall deliver the Monitor’s Homco 61 Plan Implementation Date Certificate to Homco 61 LP. Following the Homco 61 Plan Implementation Date, the Monitor shall file such certificate with the Court and shall post a copy of same on the Website.

## **ARTICLE 9 GENERAL**

### **9.1 Binding Effect**

On the Homco 61 Plan Implementation Date:

- (a) the Homco 61 Plan will become effective at the Homco 61 Effective Time and the Homco 61 Plan Transactions will be implemented;
- (b) the treatment of Homco 61 Affected Claims under the Homco 61 Plan shall be final and binding for all purposes and enure to the benefit of Homco 61 LP, Homco 61 GP, all Homco 61 Affected Creditors, the Homco 61 Plan Released Parties and all other Persons and Parties named or referred to in, or subject to, the Homco 61 Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) all Homco 61 Affected Claims shall be and shall be deemed to be forever discharged and released, excepting only the obligations to make distributions in respect of such Homco 61 Affected Claims in the manner and to the extent provided for in the Homco 61 Plan;
- (d) each Person named or referred to in, or subject to the Homco 61 Plan, will be deemed to have consented and agreed to all of the provisions of the Homco 61 Plan, in its entirety; and
- (e) each Person named or referred to in, or subject to the Homco 61 Plan, shall be deemed to have executed and delivered to Homco 61 LP all consents, releases, directions, assignments and waivers, statutory or otherwise, required to implement and carry out the Homco 61 Plan in its entirety.

## **9.2 Waiver of Defaults**

From and after the Homco 61 Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of Homco 61 LP then existing or previously committed by Homco 61 LP, or caused by Homco 61 LP, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and Homco 61 LP arising directly or indirectly from the filing by Homco 61 LP under the CCAA and the implementation of the Homco 61 Plan and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse Homco 61 LP from performing its obligations under the Homco 61 Plan or be a waiver of defaults by Homco 61 LP under the Homco 61 Plan and the related documents. This Section does not affect the rights of any Person to pursue any recoveries for a Claim that may be obtained from a guarantor (other than Homco 61 LP) and any security granted by such guarantor.

## **9.3 Homco 61 Claims Bar Date**

Nothing in the Homco 61 Plan extends or shall be interpreted as extending or amending the Homco 61 Claims Bar Date, or gives or shall be interpreted as giving any rights to any

Person in respect of Claims that have been barred or extinguished pursuant to the Claims Process Order.

#### **9.4 Deeming Provisions**

In the Homco 61 Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

#### **9.5 Non-Consummation**

Homco 61 LP reserves the right to revoke or withdraw the Homco 61 Plan at any time prior to the Homco 61 Plan Sanction Date with the consent of the Monitor. If Homco 61 LP revokes or withdraws the Homco 61 Plan, or if the Homco 61 Sanction Order is not issued or if the Homco 61 Plan Implementation Date does not occur, (a) the Homco 61 Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Homco 61 Plan (including the fixing or limiting to an amount certain any Claim including the Bond 6 Homco 61 Claim), or any document or agreement executed pursuant to the Homco 61 Plan shall be deemed null and void, and (c) nothing contained in the Homco 61 Plan, and no acts taken in preparation for consummation of the Homco 61 Plan, including in respect of the Bond 6 Homco 61 Claim, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against Homco 61 LP or any other Person; (ii) prejudice in any manner the rights of Homco 61 LP or any other Person in any further proceedings involving Homco 61 LP; or (iii) constitute an admission of any sort by Homco 61 LP or any other Person.

#### **9.6 Modification of the Plan**

- (a) Homco 61 LP reserves the right, at any time and from time to time prior to or at the Homco 61 Creditors' Meeting, both prior to and during the Homco 61 Creditors' Meeting, to amend, restate, modify and/or supplement the Plan; provided (i) if made prior to or at the Homco 61 Creditors' Meeting, such amendment, restatement, modification or supplement shall be communicated to the Homco 61 Affected Creditors in the manner required by the Homco 61 Meeting Order, and (ii) if made following the Homco 61 Creditors' Meeting, such amendment, restatement, modification or supplement shall be approved by the Court following notice to the Affected Creditors.
- (b) Notwithstanding Section 9.6(a), any amendment, restatement, modification and/or supplement the Homco 61 Plan may be made by Homco 61 LP with the consent of the Monitor, or pursuant to an Order, at any time and from time to time, provided that it concerns a matter which, in the opinion of Homco 61 LP, acting reasonably, is of an administrative nature required to better give effect to the implementation of the Homco 61 Plan and the Homco 61 Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Homco 61 Affected Creditors.
- (c) Any amended, restated, modified or supplementary Homco 61 Plan or Plans filed with the Court and, if required by this Section, approved by the Court, shall, for



all purposes, be and be deemed to be a part of, and incorporated, in the Homco 61 Plan.

### **9.7 Paramountcy**

Except with respect to the Homco 61 Unaffected Claims, from and after the Homco 61 Effective Time on the Homco 61 Plan Implementation Date, any conflict between:

- (a) the Homco 61 Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, constating documents of Homco 61 LP and Homco 61 GP, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and Homco 61 LP as at the Homco 61 Plan Implementation Date;

will be deemed to be governed by the terms, conditions and provisions of the Homco 61 Plan and the Homco 61 Sanction Order, which shall take precedence and priority.

### **9.8 Severability of Plan Provisions**

If, prior to the Homco 61 Plan Sanction Date, any term or provision of the Homco 61 Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of Homco 61 LP and with the consent of the Monitor, shall have the power to either (a) sever such term or provision from the balance of the Homco 61 Plan and provide Homco 61 LP with the option to proceed with the implementation of the balance of the Homco 61 Plan as of and with effect from the Homco 61 Plan Implementation Date, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that Homco 61 LP proceeds with the implementation of the Homco 61 Plan, the remainder of the terms and provisions of the Homco 61 Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

### **9.9 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings with respect to Homco 61 LP and not in its personal or corporate capacity for any and all acts, or decisions to not act in the implementation of the HII Plan and the Homco 61 Plan, whether same occurs before or after the Plan Implementation Date. The Monitor is acting and will continue to act in its capacity as Monitor in the CCAA Proceedings with respect to the HII Group Entities and not in its personal and corporate capacities while establishing and administering the Cash Reserves (including any adjustments with respect to same), opening a DRS Account, holding the Non-Core Business Assets Notes, selecting a Trading Platform and establishing any of the

Distribution Dates, Materials Record Date, Effective Time, or the timing or sequence of the Plan Transactions under the HII Plan or the Homco 61 Plan. The Monitor will not be responsible or liable for any obligations of Homco 61 LP, including with respect to the payment of the Homco 61 Administrative Reserve Costs and the making of distributions or the receipt of any distribution by a Homco 61 Affected Creditor pursuant to the Homco 61 Plan. The Monitor will have the powers and protections granted to it by the Homco 61 Plan, the CCAA, the Initial Order, the HII/Shareco Meeting Order, the Homco 61 Meeting Order, the Homco 61 Sanction and Vesting Order, and any other Order made in the CCAA Proceedings.

#### **9.10 Different Capacities**

Persons who are affected by the Homco 61 Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person in writing or unless its Claims overlap or are otherwise duplicative.

#### **9.11 Notices**

Any notice of other communication to be delivered hereunder must be in writing and reference the Homco 61 Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective Parties as follows:

If to Homco 61 LP:

c/o Homburg Invest Inc.  
32 Akerley Boulevard  
Dartmouth, Nova Scotia  
B3B 1N1

Attention: Mr. Jan Schöningh, President and Chief Executive Officer  
and Mr. James F. Miles, Chief Financial Officer

Fax: (514) 841-9618

Email: jschonigh@hinvest.ca / jmiles@hinvest.ca

with a copy to:

Osler, Hoskin & Harcourt LLP  
1000 De la Gauchetiere Street West  
Suite 2100  
Montreal, Quebec  
H3B 4W5

Attention: Mr. Vitale Santoro and Ms. Sandra Abitan

Fax: (514) 904-8101

Email: vsantoro@osler.com / sabitan@osler.com

If to a Creditor:

to the address or facsimile number or email address for such Creditor specified in the Proof of Claim or Letter of Instruction filed by such Creditor;

If to the Monitor:

Samson Belair/Deloitte & Touche Inc.  
1 Place Ville Marie  
Suite 3000  
Montreal, Quebec  
H3B 4T9

Attention: Mr. Pierre Laporte and Mr. Jean-Francois Nadon  
Fax: (514) 390-4103  
Email: pilaporte@deloitte.ca / jnadon@deloitte.ca

with a copy to:

McCarthy Tetrault LLP  
1000 De la Gauchetiere Street West  
Suite 2500  
Montreal, Quebec  
H3B OA2

Attention: Mr. Mason Poplaw and Mr. Clemens Mayr  
Fax: (514) 875-6246  
Email: mpoplaw@mccarthy.ca / cmayr@mccarthy.ca

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 5:00 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

## **9.12 Further Assurances**

Each of the Persons named or referred to in, or subject to, the Homco 61 Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Homco 61 Plan and to give effect to the transactions contemplated herein.

**DATED** as of the 25th day of April, 2013.

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-**

**SAMSON BÉLAIR/DELOITTE & TOUCHE  
INC.**

**Monitor**

---

**PLAN OF COMPROMISE OF HOMCO REALTY FUND  
(61) LIMITED PARTNERSHIP**

---

**COPY**

---

**Mtre. Martin Desrosiers**

**Mtre. Sandra Abitan**

**Osler, Hoskin & Harcourt LLP**

1000 De La Gauchetière Street West, Suite 2100

Montréal, Québec H3B 4W5

Tel: 514.904.8100 Fax: 514.904.8101

Code : BO 0323

o/f: 1131787