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CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
COURT. No.: 500-11-041305-117

SUPERIOR COURT
Commercial Division

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

HOMBURG INVEST INC., a legal person, duly constituted under the *Business Corporations Act* (Alberta), having its registered office at 3700 Canterra Tower, 400 Third Avenue SW, Calgary, Alberta, T2P 4H2, and having a chief place of business at Suite 1010, 1 Place Alexis Nihon, Montreal, Quebec, H3Z 3B8

– and –

HOMBURG SHARECO INC., a legal person, duly constituted under the *Companies Act* (Nova Scotia), having its head office at 3700 Canterra Tower, 400 Third Avenue SW, Calgary, Alberta, T2P 4H2, and having a chief place of business at Suite 1010, 1 Place Alexis Nihon, Montreal, Quebec, H3Z 3B8

– and –

CHURCHILL ESTATES DEVELOPMENT LTD., a legal person, duly constituted under the *Business Corporations Act* (Alberta), having its head office at Unit 127, 6227-2nd Street SE, Calgary, Alberta, T2H 1J5, and having a chief place of business at Suite 1010, 1 Place Alexis Nihon, Montreal, Quebec, H3Z 3B8

– and –

INVERNESS ESTATES DEVELOPMENT LTD., a legal person, duly constituted under the *Business Corporations Act* (Alberta), having its head office at Unit 127, 6227-2nd Street SE, Calgary, Alberta, T2H 1J5, and having a chief place of business at Suite 1010, 1 Place Alexis Nihon, Montreal, Quebec, H3Z 3B8

– and –

CP DEVELOPMENT LTD., a legal person, duly constituted under the *Business Corporations Act* (Alberta), having its head office at Unit 127, 6227-2nd Street SE, Calgary, Alberta, T2H 1J5, and having a chief place of business at Suite 1010, 1 Place Alexis Nihon, Montreal, Quebec, H3Z 3B8

Debtors/Petitioners

- and -

THE ENTITIES LISTED IN APPENDIX A

Mis-en-cause

– and –

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
(Pierre Laporte, CA, CIRP, person in charge), having a place of business at 1 Place Ville Marie, Suite 3000, Montreal, Quebec, H3B 4T9

Monitor

**THIRD REPORT TO THE COURT
SUBMITTED BY SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
IN ITS CAPACITY AS MONITOR**
(Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended)

INTRODUCTION

1. On September 9, 2011, Homburg Invest Inc. ("**HII**"), Homburg Shareco Inc. ("**Shareco**"), Churchill Estates Development Ltd. ("**Churchill**"), Inverness Estates Development Ltd. ("**Inverness**") and CP Development Ltd. ("**CP**") (collectively the "**Debtors**" or the "**Companies**") filed and obtained protection from their creditors under Section 4, 5 and 11 of the *Companies' Creditors Arrangement Act* ("**CCAA**") pursuant to an Order rendered by this Honorable Court (the "**Initial Order**").
2. Pursuant to the Initial Order, a stay of proceedings was granted until October 7, 2011 (the "**First Stay Period Order**") in favor of the Debtors and of the following limited partnerships which form an integral part of the business of the Debtors: Homburg Realty Fund (52) Limited Partnership ("**Partnership (52)**"), Homburg Realty Fund (88) Limited Partnership ("**Partnership (88)**"), Homburg Realty Fund (89) Limited Partnership ("**Partnership (89)**"), Homburg Realty Fund (92) Limited Partnership ("**Partnership(92)**"), Homburg Realty Fund (94) Limited Partnership ("**Partnership (94)**") (following an amendment to the Initial Order on October 7, 2011), Homburg Realty Fund (105) Limited Partnership ("**Partnership (105)**"), Homburg Realty Fund (121) Limited Partnership ("**Partnership (121)**"), Homburg Realty Fund (122) Limited Partnership ("**Partnership (122)**"), Homburg Realty Fund (142) Limited Partnership ("**Partnership (142)**") and Homburg Realty Fund (199) Limited Partnership ("**Partnership (199)**"), (collectively, the "**Applicant Partnerships**") (the Debtors and the Applicant Partnerships shall be collectively referred as the "**Homburg Parties**").

3. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (“**Deloitte**”) was appointed as monitor to the Debtors (the “**Monitor**”) under the CCAA.
4. On September 19, 2011, the Monitor filed its First Report with the Court. The purpose of this First Report was to cover specifically the Cash Flow Statement, in accordance with paragraph 23(1)(b) of the CCAA.
5. On October 5, 2011, the Monitor filed its Second Report with the Court. The purpose of this Second Report was to provide an overview of the Homburg Parties’ corporate structure, operations, assets and liabilities, to describe certain issues affecting the Homburg Parties and, potentially, its restructuring and to present the cash flow statements and forecasts.
6. On October 7, 2011, the Stay Period was extended until December 9, 2011 pursuant to an Order of the Court (“**First Stay Period Extension Order**”).

PURPOSE OF THE THIRD REPORT

7. In this third report (the “**Third Report**”) of the Monitor, the following will be addressed:
 - (i) Proposed re-assignment and assignment of certain agreements and the release of HII’s obligations under these agreements ;
 - (ii) Monitor’s conclusion and recommendation.

TERMS OF REFERENCE

8. In preparing this Third Report, the Monitor has relied upon unaudited financial information, the Homburg Parties’ records, the amended Motion for an initial order dated September 9, 2011 (the “**Motion for Initial Order**”), the Motion for an Order Confirming the re-assignment and assignment of certain agreements and the release of HII’s obligations under these agreements (the “**Motion**”) and its discussions with the management of the Homburg Parties and their financial and legal advisors. While the Monitor has analyzed the information, some in draft format, submitted in the abridged time available, the Monitor has not performed an audit or otherwise verified such information. Forward looking financial information included in the Third Report is based on assumptions of the Homburg Parties’ management regarding future events, and actual results achieved will vary from this information and the variations may be material.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not defined in this Third Report are as defined in the First Report, the Second Report, the Motion for Initial Order and the Motion.
10. A copy of this Third Report and further reports of the Monitor will be made available on the Monitor’s website at www.deloitte.com/ca/homburg-invest. The Monitor has also established a toll free number that is referenced on the Monitor’s website so that parties may contact the Monitor if they have questions with respect to the Companies’ restructuring or the CCAA.

THE CANOXY HEAD LEASE, THE ASSIGNMENT, THE SUBLEASES AND THE NON-DISTURBANCE AGREEMENTS

11. On October 11, 2005, Statoil Canada Ltd. (formerly North American Oil Sands Corporation and StatoilHydro Canada Ltd.) (“**Statoil**”), as tenant, entered into a lease agreement with Cadillac Fairview (“**Cadillac**”), as landlord, for the lease of premises in Canoxy Place in Alberta, which lease has been amended from time to time (the “**Canoxy Head Lease**”).
12. On April 5, 2010, HII became a party to the Canoxy Head Lease pursuant to an assignment agreement between Statoil, as assignor, HII, as assignee, and Cadillac, as landlord (the “**Assignment**”).
13. Following the Assignment, HII entered into subleases with Subtenants (the “**Canoxy Subleases**”) and, concurrently, into Non-Disturbance Agreements with the Subtenants and Statoil (the “**NDAs**”), as further described in paragraph 7 of the Motion.

THE DISCLAIMERS AND NOTICES OF CONSEQUENTIAL TERMINATION

14. As mentioned in the Second report, on September 29, 2011, with the prior approval of the Monitor, HII sent notices of disclaimer of the Canoxy Head Lease and of the Assignment to Cadillac and Statoil.
15. That same day, HII sent notices of consequential termination of the Canoxy Subleases and, for greater certainty, notices of disclaimers of the Canoxy Subleases pertaining to all Canoxy Subleases.
16. HII aggregate’s monthly rental obligations under the Canoxy Head Lease are currently approximately \$568K/month and HII is not yet collecting rent under the Canoxy Subleases. Starting on or around January 2012, the Canoxy Subleases will generate, in the aggregate, monthly income of approximately \$323K/month such that the revenue generated under the Canoxy Subleases is significantly lower than HII’s obligations under the Canoxy Head Lease, the difference representing an amount of approximately \$245K/month (the “**Canoxy Negative Differential**”). Therefore it is not economic nor sustainable from a cash flow perspective for HII to retain the Canoxy Head Lease, given that the rent payable thereunder is significantly higher than the aggregate rent to be received by HII from the Subtenants pursuant to the Canoxy Subleases.
17. In addition, HII has various tenant improvements undertakings representing in the aggregate approximately \$2.4M (the “**Canoxy TI**”) over the term of the Canoxy Head Lease.
18. Therefore it is estimated that retaining the Canoxy Head Lease until 2018 would cost HII a total of approximately \$22.6M, subject to adjustments and without taking into consideration the time value of money. This amount includes approximately \$2.4M in Canoxy TI costs as well as the monthly differential of at least approximately \$245K between what is collected by HII from the Subtenants pursuant to the Subleases and what is payable by HII to Cadillac pursuant to the Canoxy Head Lease, said recurring monthly differential amounting to a total of approximately \$20.2M over the term of the Canoxy Head Lease and the Canoxy Subleases. This amount also assumes that there will be no default under the Canoxy Subleases for the duration of the respective term of each Canoxy Sublease. A detailed summary of the calculation of this differential is disclosed herewith in Appendix B.

19. Considering the negative impact of the Canoxy Negative Differential and the Canoxy TI outstanding on the cash flow of HII, the Monitor approved the disclaimer of the Canoxy Head Lease and of the Assignment, since the disclaimers would enhance the prospect of a viable compromise and facilitate the restructuring of HII.
20. For the same reasons and consequentially to the disclaimers of the Canoxy Head Lease and of the Assignment, the Monitor also approved the notices of consequential termination and disclaimers of the Canoxy Subleases.
21. In accordance with the disclaimers and notices of consequential termination, HII's obligations under the Canoxy Head Lease and Canoxy Subleases were to be disclaimed as at October 30, 2011.
22. HII has met its post-filing obligations to pay rent owed for the period between September 9, 2011 and October 30, 2011, the expected date at which the disclaimer of the Canoxy Head Lease will become effective.

**THE EFFECT OF THE CANOXY HEAD LEASE, THE ASSIGNMENT AND THE NDAs
AND THE PROPOSED RE-ASSIGNMENT OF THE CANOXY HEAD LEASE AND
ASSIGNMENT OF THE SUBLEASES**

23. Following the sending of the notices of consequential termination and disclaimers of the Subleases, several Subtenants' counsels contacted the Monitor and its counsels and emphasized the fact that the NDAs, which the Monitor had not seen beforehand, should be taken into consideration in order to minimize, or even eliminate, the potential losses of the Subtenants resulting from the disclaimers and notices of consequential termination.
24. Cadillac and the Subtenants filed with the Court motions in contestation of the disclaimers and notices of consequential termination.
25. In light of the NDAs, the Monitor's counsel coordinated discussions between the parties, seeking to explore alternative courses of action which would meet HII's objective to obtain a release of its obligations going forward under the Canoxy Head Lease, the Assignment and the Canoxy Subleases (subject to any restructuring claims against HII that may result therefrom) in order to enhance the prospect of a viable compromise or arrangement in the context of the CCAA proceeding, all the while taking into consideration the interest of the stakeholders, particularly Cadillac and the Subtenants, under the Canoxy Head Lease, the Assignment and the NDAs.
26. Following these discussions, it appeared that the parties had already contractually agreed on the conditions applicable to the current situation within the various agreements binding upon HII, Cadillac, Statoil and the Subtenants.
27. As a result of these discussions, HII, Cadillac and the Subtenants agreed upon an order which would satisfy the foregoing dual objectives, which order is the object of the Motion.

MONITOR'S CONCLUSION AND RECOMMENDATION

28. The Monitor supports the Motion as the order sought therein will facilitate the restructuring of HII and enhance the prospects of a viable compromise or arrangement, while minimizing, or even eliminating entirely, any losses of Cadillac and the Subtenants resulting from the disclaimers and

notices of consequential termination by ensuring the execution of the existing agreements between the parties, including Statoil.

29. It is the Monitor's view that the Homburg Parties have acted in good faith and with due diligence in accordance with the Initial Order.

The Monitor respectfully submits to the Court its Third Report.

DATED AT MONTREAL, this 4th day of November 2011.



Pierre Laporte, CA, CIRP
President

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
In its capacity as Court-Appointed Monitor

APPENDIX A

APPENDIX A: MIS-EN-CAUSE ENTITIES

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

APPENDIX B

Appendix B

Homburg Invest Inc.

Canoxy Building

Total sqft 117568
End Date 30-Jun-18
TI Costs \$20/sqft

	Cash Outflow	Cash Inflow	Variance
2011	1,136,303.51	-	1,136,303.51
2012	6,817,821.07	3,635,164.16	3,182,656.91
2013	6,817,821.07	3,926,377.48	2,891,443.59
2014	6,817,821.07	3,926,377.48	2,891,443.59
2015	6,817,821.07	3,926,377.48	2,891,443.59
2016	6,817,821.07	3,926,377.48	2,891,443.59
2017	6,817,821.07	3,926,377.48	2,891,443.59
2018	3,408,910.53	1,963,188.74	1,445,721.80
	<u>45,452,140.44</u>	<u>25,230,240.27</u>	<u>20,221,900.17</u>
Tenant Improvement (TI) Costs			<u>2,351,360.00</u>
Total Costs to Homburg Invest Inc.			<u>22,573,260.17</u>

Appendix B

Homburg Invest Inc.
 Canoxy Building
 Rent Differential Calculation
 October 20, 2011

	Lease Start Date	Base Rent	Service Rent	Parking Rent	Property Tax	GST	Total
Homburg Invest Inc.		329,533.65	132,577.93	28,725.00	50,260.33	27,054.85	568,151.76
SPT Group Canada (formerly Neo-Technology Consultants Ltd.)	1-Jan-12	9,641.33	9,317.66		3,532.86	1,124.59	23,616.44
MHI Fund Management	1-Jan-12	4,433.33	4,284.50		1,624.50	517.12	10,859.45
Logan Completion Systems	1-Jan-12	7,519.17	7,266.74		2,755.24	877.06	18,418.21
Moe Hannah McNeill LLP	1-Jan-12	6,552.00	6,332.04		2,400.84	764.24	16,049.12
Tucker Wireline Services	1-Mar-12	10,500.00	10,147.50		3,847.50	1,224.75	25,719.75
VACANT							
BOS Solutions	1-Jan-12	10,572.33	10,217.41		3,874.01	1,233.19	25,896.94
Canadian Tubular Services	1-Jan-12	3,529.17	3,410.69		1,293.19	411.65	8,644.70
Keywest Projects	1-Mar-12	14,091.00	13,617.95		5,163.35	1,643.62	34,515.92
CE Franklin	1-Mar-12	14,089.83	13,616.82		5,162.92	1,643.48	34,513.05
CE Franklin	1-Mar-12	6,672.17	6,448.17		2,444.87	778.26	16,343.47
Keywest Projects	1-Jan-12	7,415.33	7,166.39		2,717.19	864.95	18,163.86
Surge Energy Inc	1-Feb-12	14,092.17	13,619.07		5,163.77	1,643.75	34,518.76
Surge Energy Inc.	1-Feb-12	14,088.67	13,615.69		5,162.49	1,643.34	34,510.19
Premier Petroleum Group	1-Jan-12	10,381.00	10,032.50		3,803.90	1,210.87	25,428.27
Total Income Rents		133,577.50	129,093.13	28,725.00	48,946.63	15,580.86	327,198.12
Total Differential		195,956.15	3,484.80	28,725.00	1,313.70	11,473.98	240,953.63

Appendix B
Homburg Invest Inc
Canoxy Building

Total sqft 117568
End Date 30-Jun-18

	Pay by HII	Reclve by HII	Difference
November 2011	568,151.76	0	568,151.76
December 2011	568,151.76	0	568,151.76
January 2012	568,151.76	147,076.99	421,074.77
February 2012	568,151.76	216,105.94	352,045.82
March 2012	568,151.76	327,198.12	240,953.63
April 2012	568,151.76	327,198.12	240,953.63
May 2012	568,151.76	327,198.12	240,953.63
June 2012	568,151.76	327,198.12	240,953.63
July 2012	568,151.76	327,198.12	240,953.63
August 2012	568,151.76	327,198.12	240,953.63
September 2012	568,151.76	327,198.12	240,953.63
October 2012	568,151.76	327,198.12	240,953.63
November 2012	568,151.76	327,198.12	240,953.63
December 2012	568,151.76	327,198.12	240,953.63
January 2013	568,151.76	327,198.12	240,953.63
February 2013	568,151.76	327,198.12	240,953.63
March 2013	568,151.76	327,198.12	240,953.63
April 2013	568,151.76	327,198.12	240,953.63
May 2013	568,151.76	327,198.12	240,953.63
June 2013	568,151.76	327,198.12	240,953.63
July 2013	568,151.76	327,198.12	240,953.63
August 2013	568,151.76	327,198.12	240,953.63
September 2013	568,151.76	327,198.12	240,953.63
October 2013	568,151.76	327,198.12	240,953.63
November 2013	568,151.76	327,198.12	240,953.63
December 2013	568,151.76	327,198.12	240,953.63
January 2014	568,151.76	327,198.12	240,953.63
February 2014	568,151.76	327,198.12	240,953.63
March 2014	568,151.76	327,198.12	240,953.63
April 2014	568,151.76	327,198.12	240,953.63
May 2014	568,151.76	327,198.12	240,953.63
June 2014	568,151.76	327,198.12	240,953.63
July 2014	568,151.76	327,198.12	240,953.63
August 2014	568,151.76	327,198.12	240,953.63
September 2014	568,151.76	327,198.12	240,953.63
October 2014	568,151.76	327,198.12	240,953.63
November 2014	568,151.76	327,198.12	240,953.63
December 2014	568,151.76	327,198.12	240,953.63
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February 2015	568,151.76	327,198.12	240,953.63
March 2015	568,151.76	327,198.12	240,953.63
April 2015	568,151.76	327,198.12	240,953.63
May 2015	568,151.76	327,198.12	240,953.63
June 2015	568,151.76	327,198.12	240,953.63
July 2015	568,151.76	327,198.12	240,953.63
August 2015	568,151.76	327,198.12	240,953.63
September 2015	568,151.76	327,198.12	240,953.63
October 2015	568,151.76	327,198.12	240,953.63
November 2015	568,151.76	327,198.12	240,953.63
December 2015	568,151.76	327,198.12	240,953.63
January 2016	568,151.76	327,198.12	240,953.63
February 2016	568,151.76	327,198.12	240,953.63
March 2016	568,151.76	327,198.12	240,953.63
April 2016	568,151.76	327,198.12	240,953.63
May 2016	568,151.76	327,198.12	240,953.63
June 2016	568,151.76	327,198.12	240,953.63
July 2016	568,151.76	327,198.12	240,953.63
August 2016	568,151.76	327,198.12	240,953.63
September 2016	568,151.76	327,198.12	240,953.63
October 2016	568,151.76	327,198.12	240,953.63
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February 2017	568,151.76	327,198.12	240,953.63
March 2017	568,151.76	327,198.12	240,953.63
April 2017	568,151.76	327,198.12	240,953.63
May 2017	568,151.76	327,198.12	240,953.63
June 2017	568,151.76	327,198.12	240,953.63
July 2017	568,151.76	327,198.12	240,953.63
August 2017	568,151.76	327,198.12	240,953.63
September 2017	568,151.76	327,198.12	240,953.63
October 2017	568,151.76	327,198.12	240,953.63
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March 2018	568,151.76	327,198.12	240,953.63
April 2018	568,151.76	327,198.12	240,953.63
May 2018	568,151.76	327,198.12	240,953.63
June 2018	568,151.76	327,198.12	240,953.63
Total	45,452,140.44	25,230,240.27	20,221,900.17
Average from January 2012 to June 2018	568,151.76	323,464.62	244,687.14