

Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-041305-117

In the matter of the plan of compromise or arrangement of:

1810040 Alberta Ltd. (formerly known as Homburg Invest Inc. and Homburg Shareco Inc.)

Debtor

- and -

Deloitte Restructuring Inc. (formerly known as Samson Bélair/Deloitte & Touche Inc.)

Monitor/Applicant

Application for the Issuance of an Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee¹
(Companies' Creditors Arrangement Act, ss 11, and 11.02)

To the Honourable Louis J. Guoin of the Superior Court, sitting in the Commercial Division for the District of Montréal, the Monitor respectfully submits:

I. Introduction

1. By the present application (the "**Application**"), the Monitor is seeking an order from this Court (i) extending the Stay Period (as defined hereinafter) up to and including the earlier of the CCAA Termination Time (as defined hereinafter) and November 30, 2021, (ii) approving the distribution of the Remaining Funds (as defined hereinafter), (iii) terminating the CCAA Proceedings, and (iv) discharging Deloitte Restructuring Inc. (formerly known as Samson Bélair/Deloitte & Touche Inc.) ("**Deloitte**" or the "**Monitor**") in its capacity as Monitor and the Liquidation Advisory Committee, the whole pursuant to an order substantially in the form of the Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee (the "**Proposed Order**"), communicated herewith as **Exhibit P-1**.
2. On June 5, 2013, the Court issued an order *inter alia* ordering that the Monitor is authorized, entitled, empowered, to perform its functions and fulfill its obligations under the HII/Shareco Plan.

¹ All capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the HII/Shareco Plan.

3. On or about May 13, 2021, in view of the upcoming Final Distribution (as defined hereinafter), the Monitor was informed of the resignation of the sole remaining director of 1810040 Alberta Ltd. (the “**Debtor**”), leaving the Debtor without a board of directors. In light of the foregoing, and given the expanded powers granted to the Monitor to fulfill its functions and obligations, the Monitor is hereby seeking the relief requested pursuant to the Proposed Order on behalf of the Debtor and in its capacity as Monitor.

II. Procedural Background

4. On September 9, 2011, the Honourable Louis J. Gouin, J.S.C. issued an order (as amended and extended from time to time, the “**Initial Order**”) pursuant to the *Companies Creditors’ Arrangement Act*, R.S.C. 1985, c. C-36 commencing proceedings (the “**CCAA Proceedings**”) in respect of Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. and CP Development Ltd. (collectively the “**Initial Debtors**”) as appears from the Court record.
5. Pursuant to the Initial Order, Deloitte was appointed as monitor and a stay of proceedings (the “**Stay of Proceedings**”) was issued from the date of the Initial Order until October 7, 2011.
6. On October 7, 2011, the Court issued an order (the “**First Extension Order**”) extending the Stay of Proceedings. Since then, the Court has further extended the Stay of Proceedings, most recently until October 29, 2021 (the “**Stay Period**”), as appears from the Court record.
7. As appears from the Initial Order and the First Extension Order, the Stay of Proceedings was initially extended in favour of the following limited partnerships: Homco Realty Fund (52) Limited Partnership, Homco Realty Fund (88) Limited Partnership, Homco Realty Fund (89) Limited Partnership, Homco Realty Fund (92) Limited Partnership, Homco Realty Fund (94) Limited Partnership, Homco Realty Fund (105) Limited Partnership, Homco Realty Fund (121) Limited Partnership, Homco Realty Fund (122) Limited Partnership, Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership.
8. By subsequent orders of this Court, the Initial Order was amended from time to time in order to add Petitioners and Applicant Partnerships being subject to the Initial Order, including, amongst others, by the Order of the Court made on February 6, 2013, pursuant to which the Initial Order was amended, namely, to add Homco Realty Fund (61) Limited Partnership (“**Homco 61**”) as an additional Applicant Partnership.
9. By subsequent orders of the Court, the Stay of Proceedings was discontinued for certain entities, many of which were subsequently assigned into bankruptcy, such that only 1810040 Alberta Ltd. (formerly HII and Shareco prior to their amalgamation), and Homco 61 (jointly referred to herein as the “**HII Group**”) remained subject to the Stay of Proceedings. Homco 61 has since been dissolved and wound up, such that only HII remains subject to the Stay of Proceedings as of the date hereof.
10. On June 5, 2013, the Court issued an order (the “**HII/Shareco Plan Sanction Order**”) *inter alia* sanctioning the Plan of Compromise and Reorganization of HII and Shareco (as amended and restated from time to time, the “**HII/Shareco Plan**”).

11. On the same day, the Court issued an order (the “**Homco 61 Plan Sanction Order**” and together with the HII/Shareco Plan Sanction Order, the “**Sanction Orders**”) *inter alia* sanctioning the Restated Plan of Compromise of Homco 61 (the “**Homco 61 Plan**” and together with the HII/Shareco Plan, the “**Plans**”).
12. On March 27, 2014, the Monitor issued a plan implementation certificate in respect of (i) the HII/Shareco Plan and (ii) the Homco 61 Plan, confirming that the conditions precedent to the implementation of each Plan were satisfied and/or waived (the “**Plan Implementation Date**”).
13. Pursuant to the HII/Shareco Plan, on the Plan Implementation Date, the Liquidation Advisory Committee was constituted and had to be comprised of three individual members, namely one nominated by Stichting Homburg Bonds, one nominated by Catalyst and one nominated by HII. From the Plan Implementation Date until the date hereof, the Liquidation Advisory Committee has been composed of Mr. Karel de Vries, Mr. Gabriel De Alba and Mr. Jan Schöningh (the “**Committee Members**”).
14. On July 14, 2021, the Court issued an order extending the Stay Period up to and including September 30, 2021, in order to *inter alia* allow the Monitor to complete the execution of Plans principally in order to attempt to obtain updated banking information from the related Affected Creditors in order to resolve the bounced payments further to the final distribution under the Plans (the “**Final Distribution**”) and to apply to the Court to obtain its discharge.
15. Most recently on September 3, 2021, the Court issued an order (the “**Order Approving the Notice of Final Deadline**”) extending the Stay Period up to and including October 29, 2021, in order to *inter alia* allow the Monitor to complete the execution of the Plans, principally in order to implement the required steps in connection with the *Notice of Final Deadline (September 27, 2021) to Provide Information to Receive the Final Distribution Payment* (the “**Notice of Final Deadline**”) in an attempt to obtain updated banking information from the bondholders (or their successors) with Proven Claims or Homco 61 Proven Claims who have not yet received the Final Distribution payment(s) (the “**Bondholders with Missing or Incomplete Information**”) to resolve the remaining bounced payments and to apply to the Court to obtain its discharge.

III. The Notice of Final Deadline and the Remaining Bondholders with Missing or Incomplete Information

16. As further detailed in the Monitor’s *Application for the Issuance of an Order Approving the Notice of Final Deadline (September 27, 2021) to Provide Information to Receive the Final Distribution Payment and Granting Ancillary Relief* (the “**Application for the Order Approving the Notice of Final Deadline**”), as at September 1, 2021, despite the significant efforts expended by the Monitor and Stichting Homburg Bonds to resolve the bounced payments that occurred as part of the Final Distribution, approximately 230 bounced payments (out of approximately 830 initial bounced payments at the time of the Final Distribution) still needed to be resolved.

17. Given the resources and costs associated with attempting to obtain updated banking information from the Bondholders with Missing or Incomplete Information so that they can receive the payments to which they are entitled under the Final Distribution, the Monitor sought and obtained the Order Approving the Notice of Final Deadline which, *inter alia*:
- approved the Notice of Final Deadline;
 - ordered the Monitor to publish on its website the Notice of Final Deadline and to send a copy of same to the Bondholders with Missing or Incomplete Information at their last known email address, if any; and
 - declared that in the event that Bondholders with Missing or Incomplete Information do not send to the Monitor a duly completed Change Request Form, or if the information provided in the Change Request Form is not complete or satisfactory, by September 27, 2021, the right of such Bondholders with Missing or Incomplete Information to the Final Distribution payments will be forever discharged and forever barred, without any compensation and the pending amounts, if any, will be treated pursuant to a final determination which will be sought from the Court in the month of October 2021.
18. In the days following the issuance of the Order Approving the Notice of Final Deadline, and in accordance with the terms thereof, the Monitor published the Notice of Final Deadline on its website and proceeded to send to each Bondholder with Missing or Incomplete Information, by email at their last known email address (if any), a copy of the Notice of Final Deadline.
19. Further to the steps undertaken by the Monitor and the Stichting Homburg Bonds in accordance with the Order Approving the Notice of Final Deadline, the Monitor was able to make the Final Distribution payment(s) to 122 additional Bondholders with Missing or Incomplete Information at the beginning of October 2021. The following table illustrates the progress made as regards the Final Distribution since the Order Approving the Notice of Final Deadline:

| Progress following the Notice of Final Deadline | Remaining Payment Refused | | Processed following Final Deadline | | Still missing as of September 27, 2021 | |
|---|---------------------------|-------------------|------------------------------------|-------------------|--|------------------|
| | Count | \$ CAD | Count | \$ CAD | Count | \$ CAD |
| Email sent | 146 | 104 341,46 | 94 | 75 027,18 | 52 | 29 314,27 |
| Email missing | 85 | 76 912,86 | 28 | 45 471,16 | 57 | 31 441,70 |
| Total | 231 | 181 254,32 | 122 | 120 498,35 | 109 | 60 755,97 |

20. As appears from the above table, there remains 109 Bondholders with Missing or Incomplete Information for which the Monitor did not receive the banking information despite its efforts, either because they could not be found (for 96 Bondholders) or they advised the Monitor or Stichting Homburg Bonds that they did not intend to submit information before the Final Deadline (for 13 Bondholders), for a total of \$60,755.97, an amount that the Monitor continues to hold as of this date.

21. As such, in total, the steps taken by the Monitor and Stichting Homburg Bonds between May and September 2021 have allowed to proceed with the Final Distribution to approximately 87% of the Bondholders for whom there was a bounced payment (i.e. 719 out of 828), meaning that only approximately 1% of the Bondholders (i.e. 109 out of approximately 9000 Bondholders) have not received their Final Distribution as of the date of this Application. For better clarity, this 1% of the Bondholders which did not receive their Final Distribution have received all of their previous distributions and the only distribution that they have not received is the Final Distribution.

IV. The Distribution of the Remaining Funds

22. In its Application for the Order Approving the Notice of Final Deadline, the Monitor indicated to the Court that should it be unable to resolve all of the bounced payments before October 29, 2021, it would seek instructions from the Court at the time of its discharge regarding the remaining amounts which could not be distributed to Bondholders with Missing or Incomplete Information given the fact complete and satisfactory information was not received from them by the deadline of September 27, 2021, and this is the object of the present Application.
23. The following table illustrates the apportionment of the funds which have not yet been distributed as part of the Final Distribution (net of the bank fees charged by the Monitor's bank due to the bounced payment, as applicable) (the "**Remaining Funds**") between two (2) categories of persons/entities: (i) the 109 Bondholders with Missing or Incomplete Information who did not provide the Monitor with complete updated banking information and (ii) the Other Unclaimed Creditors, as at the date hereof:

| As of September 27, 2021 | Count | Amount held by the Monitor \$ CAD |
|---------------------------------------|-------|--------------------------------------|
| Bondholders - missing information | 109 | 60 755,97 |
| Trade creditors - cheques outstanding | 10 | 137 052,10 |

24. Following a consultation with Stichting Homburg Bonds, and the ensuing approval of the Liquidation Advisory Committee, the Monitor is hereby seeking the Court's authorization to distribute the Remaining Funds between (i) the Stichting Homburg Bonds to be deposited with the Dutch Ministry of Finance (the "**Dutch Ministry**") in the consignment account and (ii) the Superintendent of Bankruptcy (the "**Superintendent**") to be deposited with the Receiver General of Canada, the whole for the reasons and in accordance with the mechanisms outlined below.

A. The Distribution to Stichting Homburg Bonds to be Deposited with the Dutch Ministry of Finance in the Consignment Account

25. The Monitor has been advised by Stichting Homburg Bonds and by the Monitor's Dutch counsel that, in The Netherlands, funds belonging to persons or entities which cannot be found or which belong to an unknown owner can, under certain circumstances, be tendered and deposited for payment in the consignment account with the Dutch Ministry, which process can be summarized as follows:

- (a) where an amount is deposited in a consignment account with the Dutch Ministry, a list of the persons or entities who are entitled to receive part of the amounts deposited in consignment including their name, last know addresses, if any, and the amount in Euros to which such person or entity is entitled must be remitted to the Dutch Ministry. The Dutch Ministry also requires that an entity making a deposit in a consignment account provide it with a description of the steps undertaken to track down the persons or entities who are entitled to receive the amounts that are being deposited;
 - (b) the Dutch Ministry will also require the documents showing on the basis of which legal statute, order or judgment the money is being paid into the consignment account (i.e. as detailed below, in the present case this would be article 2:23b of the *Dutch Civil Code*); and
 - (c) the Dutch Ministry keeps the funds in the consignment account for twenty (20) years to allow the beneficial owner the opportunity to come forward and claim the funds; after the expiry of that delay, any remaining funds are transferred to the Dutch State.
26. Given that the 109 Bonholders with Missing or Incomplete Information which did not provide the Monitor with complete updated banking information before the Final Deadline (the “**Consignment Bondholders**”) are, for the vast majority based on information available to the Monitor, residents of or entities constituted under the laws of The Netherlands, Stichting Homburg Bonds has suggested to the Monitor that their apportionment of the Remaining Funds (i.e. an amount totalling \$60,755.97) should be deposited in the consignment account with the Dutch Ministry, and the Monitor agrees with this suggestion. The list of the 109 Consignment Bondholders who will benefit from this mechanic will be attached as an Appendix of the Monitor’s Report.
27. Article 2:23b, para. 8, of the *Dutch Civil Code* provides that upon liquidation of an entity, the liquidator “shall tender and deposit for payment any cash funds not disposed of within six months after the last date set for their payment” (the full text of Article 2.23b is reproduced and translated in **Schedule A** hereto). The Monitor has been informed by Stichting Homburg Bonds and by the Monitor’s Dutch counsel that, in the case of a liquidation, such funds are then “tendered and deposited for payment” with the Dutch Ministry in the consignment account, without the need for a Dutch court order.
28. As a Dutch entity, upon dissolution, the liquidator of Stichting Homburg Bonds would have the option of availing itself of the consignment process further to its dissolution, Stichting Homburg Bonds has confirmed to the Monitor that it will do so in order for the Consignment Bondholders to preserve the entitlement to their portion of the Final Distribution following the termination of the CCAA Proceedings and the discharge of the Monitor.
29. The Monitor therefore seeks this Court’s authorization to distribute \$60,755.97 to Stichting Homburg Bonds (the “**Consignment Distribution**”) for the benefit of the Consignment Bondholders. For greater certainty and as provided by the Proposed Order, the Monitor also asks this Court to order that such Consignment Distribution may only be used by Stichting Homburg Bonds, as part of its dissolution and liquidation, to avail itself of article 2.23b of the *Dutch Civil Code* and tender and deposit the Consignment Distribution

in the consignment account with the Dutch Ministry for the benefit of the Consignment Bondholders.

30. The Monitor is informed that the consignment process is known in The Netherlands such that, once the Consignment Distribution is ultimately deposited in the consignment account, it will allow the Consignment Bondholders to preserve their entitlement to their portion of the Final Distribution (net of bank fees charged by the applicable banks) and will have the opportunity to claim their Final Distribution Payment(s) following the termination of the CCAA Proceedings.

B. The Distribution to the Superintendent of Bankruptcy

31. Pursuant to section 154 of the *Bankruptcy and Insolvency Act* (the “**BIA**”), before proceeding to its discharge, a trustee is to forward to the Superintendent, for deposit with the Receiver General, according to the directives of the Superintendent, the unclaimed dividends and undistributed funds that a bankruptcy trustee possesses.
32. The bankruptcy trustee is also required to provide a list of names and the last known addresses, if any, of the creditors entitled to such unclaimed dividends as well as the amount payable to each such creditor.
33. Following the discharge of the bankruptcy trustee, a creditor who has the right to such unclaimed dividend can apply to the Receiver General to recover the unclaimed dividend and the Receiver General is to make the payment as shown on the list which will have effect as if made by the trustee.
34. As indicated above, there are several Affected Creditors (10) which have not yet cashed the cheque sent to them as part of the Final Distribution (the “**Other Unclaimed Creditors**”), perhaps because they have ceased their activity or changed address. This list of Other Unclaimed Creditors will be attached as an Appendix of the Monitor’s Report.
35. FGH Bank and Aspenleaf Energy Limited are the two most important creditors included in the Other Unclaimed Creditors category and are collectively entitled to an amount of \$124,075.91 in connection with the Final Distribution, representing 90.5% of the RG Distribution (as defined hereinafter):
 - (a) FGH Bank is an Affected Creditor which is entitled to an amount of \$96,311.51 as part of the Final Distribution, in connection with its unsecured claim. The Monitor has issued and sent a cheque in the amount of \$96,311.51 in favour of FGH Bank. FGH Bank was a Dutch bank which, based on available information, merged with Rabobank to which it transferred some of its portfolio. The Monitor has been attempting to identify the person at FGH Bank or its assignee or successor who would be authorized to cash the dividend of FGH Bank in connection with the Final Distribution; and
 - (b) Aspenleaf Energy Limited purchased Arcan Resources, an Affected Creditor which is entitled to an amount of \$27,764.40 as part of the Final Distribution; the Monitor was recently informed of the acquisition and has re-issued a cheque in the name of Aspenleaf Energy Limited at the beginning of October 2021.

36. The Monitor is seeking this Court's authorization to distribute an amount of up to \$137,052.10 to the Superintendent (the "**RG Distribution**" and collectively with the RG Distribution, the "**Distribution of the Remaining Funds**"), which represents the aggregate amount of unclaimed dividends to which the Other Unclaimed Creditors are entitled, so that the RG Distribution can be dealt with in accordance with Section 154 of the BIA. For better clarity, the maximum amount of the RG Distribution pertains only to the Final Distribution, and the Unclaimed Affected Creditors have received all of their previous distributions such that the only distribution that they have not received is the Final Distribution
37. In the event that an Other Unclaimed Creditor cashes the cheque sent to it by the Monitor or that the Monitor is otherwise able to complete the applicable payment in connection with the Final Distribution prior to November 30, 2021, that Other Unclaimed Creditor would be removed from the list which will be provided to the Superintendent and the amount of the RG Distribution will be reduced accordingly. On November 30, 2021, any uncashed cheque issued to Other Unclaimed Creditors which has not expired due to the passage of time (six months following issuance) will be cancelled and the Monitor will proceed to the RG Distribution to the Superintendent.
38. Much like the consignment process provided for under the laws of The Netherlands, distributing the RG Distribution in accordance with section 154 of the BIA will ensure that the Other Unclaimed Creditors who have not cashed the issued and outstanding cheques sent by the Monitor, or otherwise received the amount owed to them, will preserve their entitlement to their portion of the Final Distribution and will have the opportunity to recover same following the termination of the CCAA Proceedings.

V. Termination of the CCAA Proceedings and Discharge of the Monitor

39. As at the date hereof, the Monitor has completed the Final Distribution under the Plans and the remaining matters to be dealt with in these CCAA Proceedings are primarily administrative in nature, including the Distribution of the Remaining Funds, and are anticipated to be completed in the near term.
40. Accordingly, the Monitor is now seeking the Proposed Order, which would, if granted, *inter alia*, terminate these CCAA Proceedings as of the time of the issuance of a certificate of the Monitor (the "**Monitor's Plan Completion Certificate**"), confirming that it has completed the Distribution of the Remaining Funds and the Monitor's Remaining Duties (as defined in the HII/Shareco Plan Sanction Order) (the "**CCAA Termination Time**").
41. It should be noted that the Monitor does not have the intention of assigning the Debtor into bankruptcy and that, further to the termination of the CCAA Proceedings, the Debtor would simply continue to exist without being under the protection of the CCAA.
42. The Proposed Order also contemplates that, effective as of the CCAA Termination Time, the Monitor will be discharged from its capacity as Monitor, though it would continue to have the benefit of all previous orders made and protections given to it in these CCAA Proceedings.

43. The Monitor has duly and properly discharged and performed its duties and obligations in these CCAA Proceedings in compliance and in accordance with the CCAA and all orders of this Court made in the CCAA Proceedings.
44. In its Fifty-Sixth Report to Court dated April 13, 2021, the Monitor informed the Court that the \$2 million reserve constituted for the Directors' Charge provided by the Initial Order, including interest earned, was expected to be used in order to increase the Final Distribution since it had not been utilized.
45. Given that HII, Shareco and Homco 61 will no longer have any assets as of the termination of the CCAA Proceedings, the Plan Charges no longer serve a purpose and should be terminated and discharged, as already provided by the Plans and the Sanction Orders.

VI. Discharge of the Liquidation Advisory Committee

46. The Proposed Order contemplates the discharge of the Liquidation Advisory Committee upon filing of the Monitor's Plan Completion Certificate and effective as of the CCAA Termination Time.
47. As at the date hereof, the Liquidation Advisory Committee has completed its duties under the HII/Shareco Plan and will no longer have any function to fulfill as of the CCAA Termination Time. The Liquidation Advisory Committee has duly and properly discharged and performed its duties and obligations and accordingly should be discharged.

VII. The Release in Favour of the Monitor and the Liquidation Advisory Committee Should be Approved

48. The Proposed Order provides for the confirmation of the release in favour of the Monitor, the Liquidation Advisory Committee and the Committee Members (collectively, the "**Released Parties**") from any and all liability in any way relating to, arising out of, or in respect of the CCAA Proceedings and/or the accomplishment of their duties under the Plans or any order of this Court issued in the context of the CCAA Proceedings (the "**Released Claims**").
49. Upon filing of the Monitor's Plan Completion Certificate and effective as of the CCAA Termination Time, the Released Parties would be released and discharged from the Released Claims, as contemplated by the HII/Shareco Plan and the HII/Shareco Plan Sanction Order.
50. Indeed, the HII/Shareco Plan Sanction Order already provides that the Released Parties will be released upon the filing of the Monitor's Plan Certificate; however given the time that has lapsed since the issuance of such order (more than eight (8) years) and the steps undertaken since that time, the Monitor submits that it is appropriate to include a release as part of the Proposed Order.
51. Since the Plan Implementation Date and until this date, the Liquidation Advisory Committee was consulted by the Monitor on the steps pertaining to the execution of the Plans and the continuation of the CCAA Proceedings, and exercised its functions under the HII/Shareco Plan. Each of the Committee Members was instrumental in this process, and the Committee Members have not received any remuneration in order to exercise this role.

52. The Released Parties were instrumental to the success of the CCAA Proceedings.
53. In light of the foregoing, it is respectfully submitted that it is appropriate in the circumstances to grant the release sought in favour of the Released Parties.

VIII. The Stay Period Should be Extended

54. Since September 3, 2021, the Monitor has, *inter alia*:
 - (a) continued to analyze HII Group's cash flows;
 - (b) posted on its website all public information and documentation related to HII Group's restructuring process;
 - (c) continued to respond to the queries of creditors in a timely manner;
 - (d) dealt with the numerous bounced payments resulting from the Final Distribution;
 - (e) implement the required steps in connection with the Notice of Final Deadline in an attempt to obtain updated banking information from the Bondholders with Missing or Incomplete Information to resolve the remaining bounced payments; and
 - (f) dealt with administrative matters with a view to finalizing the CCAA proceedings.
55. The Monitor hereby seeks an extension of the Stay Period up to and including the earlier of the CCAA Termination Time and November 30, 2021, in order to complete the execution of the Plans, principally in order to complete the Distribution of the Remaining Amounts.
56. The Monitor and HII Group have acted and continue to act in good faith and it is respectfully submitted that the proposed extension should be granted.
57. In light of the foregoing, the Monitor respectfully submits that the relief sought pursuant to this Application should be granted.
58. Given the nature of the order sought herein and the need to complete the CCAA proceedings in an efficient manner and as quickly as possible, it is respectfully submitted that this Court order the provisional execution of the order sought pursuant hereto, notwithstanding any appeal.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Application for the Issuance of an Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee;*

RENDER an order substantially in the form of the Proposed Order (Exhibit P-1);

THE WHOLE without legal costs, save in case of contestation.

Montreal, October 26, 2021

McCarthy Tétrault LLP

McCarthy Tétrault LLP

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Schedule A
Article 2:23b of the Dutch Civil Code

Informal English Translation

Article 2:23b DCC

- 1. After satisfaction of the claims of the creditors, the liquidator shall transfer any surplus assets of the legal person subject to the liquidation to the parties entitled thereto in proportion to their respective rights under the articles or otherwise to the members or shareholders. If no other person is entitled to such surplus he shall distribute the same to the State which will apply the same to the extent possible in accordance with the legal person's object.*
- 2. The liquidator shall prepare liquidation accounts showing the amount and composition of the surplus. If there are two or more persons entitled to such surplus, the liquidator shall prepare a plan of distribution, stating the bases for the apportionment.*
- 3. Insofar as the surplus consists of non-cash items and the articles or the court order do not provide for any direction, the following methods may be applied for such apportionment:*
 - a. apportionment of part of the surplus to each party so entitled;*
 - b. over-apportionment to one of the parties so entitled against payment of the excess value;*
 - c. distribution of the net proceeds after sale.*
- 4. The liquidator must lodge the accounts rendered and the plan of distribution for registration at the registries where the legal person is registered and, in any event, at the office of the legal person, if there is one, or at any other place in the district where the legal person has its residence. The documents shall be available there for public inspection for two months. The liquidator shall publish a notice in a newspaper stating where and until which date the same shall be available for inspection. The court can order publication in the Staatscourant.*
- 5. Within two months after the lodging of the accounts rendered and the plan and after such lodging has been published and announced in accordance with paragraph (4), each creditor or party so entitled may institute an action to set the same aside by an application to the district court. The liquidator shall publish notice of such instituted action in the same manner as that in which notice was given of the lodging of the accounts rendered and the plan of distribution.*
- 6. Whenever the financial condition justifies the same, the liquidator may make an advance distribution to the parties entitled thereto. After the commencement of the period within which an action to set aside may be made, he shall not so proceed without court authorization.*
- 7. As soon as the withdrawal of, or a decision on, any action to set the decision aside has become irrevocable, the liquidator shall give notice thereof in the manner in which notice of the action to set the decision aside was given. If the decision alters the plan of distribution, notice of the altered plan of distribution shall also be given in such manner.*
- 8. The liquidator shall tender and deposit for payment any cash funds not disposed of within six months after the last date set for their payment.*
- 9. The liquidation shall end when the liquidator is not aware of any further existing assets.*
- 10. After the expiration of one month from the date the liquidation ended, the liquidator shall account for his administration to the court, if it has been involved in the liquidation.*

Dutch Original

Artikel 2:23b BW

1. De vereffenaar draagt hetgeen na de voldoening der schuldeisers van het vermogen van de ontbonden rechtspersoon is overgebleven, in verhouding tot ieders recht over aan hen die krachtens de statuten daartoe zijn gerechtigd, of anders aan de leden of aandeelhouders. Heeft geen ander recht op het overschot, dan keert hij het uit aan de Staat, die het zoveel mogelijk overeenkomstig het doel van de rechtspersoon besteedt.
2. De vereffenaar stelt een rekening en verantwoording op van de vereffening, waaruit de omvang en samenstelling van het overschot blijken. Zijn er twee of meer gerechtigden tot het overschot, dan stelt de vereffenaar een plan van verdeling op dat de grondslagen der verdeling bevat.
3. Voor zover tot het overschot iets anders dan geld behoort en de statuten of een rechterlijke beschikking geen nadere aanwijzing behelzen, komen als wijzen van verdeling in aanmerking:
 - a. toedeling van een gedeelte van het overschot aan ieder der gerechtigden;
 - b. overbedeling aan een of meer gerechtigden tegen vergoeding van de overwaarde;
 - c. verdeling van de netto-opbrengst na verkoop.
4. De vereffenaar legt de rekening en verantwoording en het plan van verdeling neer ten kantore van de registers waarin de rechtspersoon is ingeschreven, en in elk geval ten kantore van de rechtspersoon, als dat er is, of op een andere plaats in het arrondissement waar de rechtspersoon woonplaats heeft. De stukken liggen daar twee maanden voor ieder ter inzage. De vereffenaar maakt in een nieuwsblad bekend waar en tot wanneer zij ter inzage liggen. De rechter kan aankondiging in de Staatscourant bevelen.
5. Binnen twee maanden nadat de rekening en verantwoording en het plan zijn neergelegd en de nederlegging overeenkomstig lid 4 is bekendgemaakt en aangekondigd, kan iedere schuldeiser of gerechtigde daartegen door het indienen van een verzoek bij de rechtbank in verzet komen. De vereffenaar doet van gedaan verzet mededeling op de zelfde wijze als waarop de nederlegging van de rekening en verantwoording en het plan van verdeling zijn medegedeeld.
6. Telkens wanneer de stand van het vermogen daartoe aanleiding geeft, kan de vereffenaar een uitkering bij voorbaat aan de gerechtigden doen. Na de aanvang van de verzettermijn doet hij dit niet zonder machtiging van de rechter.
7. Zodra de intrekking van of beslissing op elk verzet onherroepelijk is, deelt de vereffenaar dit mede op de wijze waarop het verzet is medegedeeld. Brengt de beslissing wijziging in het plan van verdeling, dan wordt ook het gewijzigde plan van verdeling op deze wijze meegedeeld.
8. De vereffenaar consigneert geldbedragen waarover niet binnen zes maanden na de laatste betaalbaarstelling is beschikt.
9. De vereffening eindigt op het tijdstip waarop geen aan de vereffenaar bekende baten meer aanwezig zijn.
10. Na verloop van een maand nadat de vereffening is geëindigd, doet de vereffenaar rekening en verantwoording van zijn beheer aan de rechter, indien deze bij de vereffening is betrokken.

Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-041305-117

In the matter of the plan of compromise or arrangement of:

1810040 Alberta Ltd. (formerly known as Homburg Invest Inc. and Homburg Shareco Inc.)

Debtor

- and -

Homco Realty Fund (61) Limited Partnership

Mise-en-cause

-and-

Deloitte Restructuring Inc. (formerly known as Samson Bélair/Deloitte & Touche Inc.)

Monitor/Applicant

Sworn Declaration

I, the undersigned, BENOIT CLOUÂTRE, Partner – Regional Market Leader, Québec Region of Deloitte Restructuring Inc., domiciled for the purposes hereof at 1190, Canadiens-de-Montréal Avenue, Suite 500, Montréal, Québec, H3B 0M7, solemnly affirm that all the facts alleged in the present *Application for the Issuance of an Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee* are true.

AND I HAVE SIGNED,



Benoit Clouâtre

SOLEMNLY AFFIRMED BEFORE ME BY
TECHNOLOGICAL MEANS, AT
this 26th day of October, 2021



COMMISSIONER OF OATHS
FOR THE PROVINCE OF QUÉBEC



Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-041305-117

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**Notice of Presentation
Commercial**

TO: The Service List

1. PRESENTATION OF THE PROCEEDING

TAKE NOTICE that the present *Application for the Issuance of an Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee* will be presented for adjudication before the Superior Court of Québec, sitting in the commercial division for the district of Montréal, at the Montreal Courthouse, located at 1 Notre Dame Street East, Montréal, QC, H2Y 1B6, on **October 29, 2021, at 9AM**, and participants may attend either virtually via Microsoft TEAMS OR in person in room 16.02 of the Montréal Courthouse..

TAKE NOTICE that any party wishing to contest the *Application for the Issuance of an Order (i) Extending the Stay Period, (ii) Approving the Distribution of the Remaining Funds, (iii) Terminating the CCAA Proceedings and (iv) Discharging the Monitor and the Liquidation Advisory Committee* must so inform the undersigned attorneys no later than October 28, 2021, at 1PM Eastern time, and, by that date and time, provide the undersigned attorneys a written summary of the grounds of contestation, for the contestation to be considered by the Court.

2. HOW TO JOIN THE VIRTUAL PRACTICE ROLL CALL (IF APPLICABLE)

The coordinates for joining the room 16.04 virtual roll call are the following:

- a) **With Teams Tool:** by clicking on the link available on the website www.tribunaux.qc.ca;

You need at that time to inscribe your name and click on “Joining now”. In order to facilitate the progress and the identification of the participants, we are inviting you to inscribe your name by this manner:

The lawyers: Mtre First name, Last Name (name of the represented party)

The syndics: First name, Last Name (syndic’s name)

The superintendent: First name, Last name (superintendent’s name)

The parties non-represented by lawyers: First name, Last name (precise: Plaintiff, Defendant, Petitioner, Respondent, Creditor, Opponent or other)

For people who are assisting to a public hearing: the mention may be limited to entering: (public)

- b) **By telephone:**

Canada, Québec (paid number): + 1 581-319-2194

Canada (toll-free number): (833) 450-1741

Conference ID: 516 211 860#

- c) **By videoconference:** teams@teams.justice.gouv.qc.ca

Conference VTC ID: 1149478699

- d) **In person:** If and only if you do not have access to one of these technological means above-identified. You can then go to room 16.04 of the Courthouse of Montreal, located at:

1 Notre-Dame Street East.

3. DEFAULT OF PARTICIPATING TO THE VIRTUAL ROLL CALL

TAKE NOTICE that if you wish to contest the proceeding you need to advise by written the instigator of the proceeding at the indicated coordinates in this Notice of Presentation at least 48 hours before the presentation date and participate to the virtual roll call. Failing that, a judgment could be rendered during the presentation of the proceeding, without any further notice or delay.

4. OBLIGATIONS

4.1 The Collaboration

TAKE NOTICE that you have the obligation to cooperate with the other party, in particular by informing each other, at all relevant times, of all facts and elements susceptible of promote a loyal debate and making sure you preserve the relevant evidence (*Civil Code of Procedure*, Art. 20).

4.2 Preventing and Resolving Disputes Method

TAKE NOTICE that you must, before going to the Tribunal, considerate the recourse of all preventing and resolving disputes methods which are, among others, negotiation, mediation or arbitration, for which the parties appeal a third-party assistance (*Civil Code of Procedure*, Art. 2).

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, October 26, 2021

McCarthy Tétrault LLP

McCarthy Tétrault LLP
Lawyers for the Monitor

Superior Court
(Commercial Division)

Canada
Province of Québec
District of Montréal
No: 500-11-041305-117

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List of Exhibits

Exhibit P-1 Proposed Order

Montreal, October 26, 2021

McCarthy Tétrault LLP

McCarthy Tétrault LLP
Lawyers for the Monitor

SUPERIOR COURT
(COMMERCIAL DIVISION)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
N° : 500-11-041305-117

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**Application for the Issuance of an Order (i) Extending the
Stay Period, (ii) Approving the Distribution of the
Remaining Funds, (iii) Terminating the CCAA Proceedings
and (iv) Discharging the Monitor and the Liquidation
Advisory Committee**

M^{re} Jocelyn T. Perreault – 514-397-7092

jperreault@mccarthy.ca

M^{re} François Alexandre Toupin – 514-397-4210

fatoupin@mccarthy.ca

Our reference: 783416-437027

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