

**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 (83) 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

<p>MOTION FOR EXTENSION OF THE STAY PERIOD (Sections 11 and 11.02 of the <i>Companies' Creditors Arrangement Act</i>, R.S.C., 1985)</p>
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**TO THE HONOURABLE JUSTICE LOUIS J. GOUIN OR TO ONE OF THE
HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL
DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE
PETITIONERS RESPECTFULLY SUBMIT AS FOLLOWS:**

I. INTRODUCTION

1. On September 9, 2011, the Honourable Louis J. Gouin, J.S.C. issued an order (the “**Initial Order**”) pursuant to the *Companies Creditors’ Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) in respect of Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. and CP Development Ltd. (collectively the “**Initial Debtors**”) as appears from the Court record;
2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (the “**Monitor**”) was appointed as Monitor of the Initial Debtors and a stay of proceedings (the “**Stay of Proceedings**”) was issued from the date of the Initial Order until October 7, 2011;
3. On October 7, 2011, this Court issued an order (the “**First Extension Order**”) extending the Stay of Proceedings. Since then, this Court has further extended the Stay of Proceedings, most recently until July 12, 2013 (the “**Stay Period**”), as appears from the Court record;
4. As appears from the Initial Order and the First Extension Order, the Stay of Proceedings was initially extended in favour of the following limited partnerships: Homco Realty Fund (52) Limited Partnership (“**Homco 52**”), Homco Realty Fund (88) Limited Partnership (“**Homco 88**”), Homco Realty Fund (89) Limited Partnership, Homco Realty Fund (92) Limited Partnership, Homco Realty Fund (94) Limited Partnership (“**Homco 94**”), Homco Realty Fund (105) Limited Partnership (“**Homco 105**”), Homco Realty Fund (121) Limited Partnership (“**Homco 121**”), Homco Realty Fund (122) Limited Partnership (“**Homco 122**”), Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership (collectively the “**Initial Mises-en-cause**”);
5. On May 31, 2012, this Court issued an order amending the Initial Order to add North Calgary Land Ltd. (“**NCLL**”) as a Petitioner and Homco Realty Fund (96) Limited Partnership (“**Homco 96**”) as an Applicant Partnership thereunder. On December 14, 2012, this Court issued a further order amending the Initial Order to add Homco Realty Fund (190) Limited Partnership (“**Homco 190**”) and Homco Realty Fund (191) Limited Partnership (“**Homco 191**”) as Applicant Partnerships;
6. By Order of the Court made on February 6, 2013, the Initial Order was further amended to add Homco Realty Fund (61) Limited Partnership (“**Homco 61**”) as an additional Applicant Partnership and Castello Development Ltd. (“**Castello**”) as a mise-en-cause. On March 14, 2013, the Initial Order was further amended to add Homburg Management (Canada) Inc. (“**HMCI**”) as an additional Petitioner. Finally, on April 26, 2013, this Court issued a further order amending the Initial Order to add Homco Realty Fund (83) Limited Partnership (“**Homco 83**”) as Applicant Partnership (NCLL, Homco 96, Homco 190, Homco 191, Homco 61, Castello, HMCI, Homco 83, the Initial Debtors and the Initial Mises-en-cause are collectively referred to as the “**HII Group**”);
7. The HII Group respectfully requests that this Honourable Court render the orders sought herein to extend the Stay Period until August 31, 2013;

II. IMPLEMENTATION OF THE PLANS OF ARRANGEMENT

8. On May 30, 2013, affected creditors voted overwhelmingly in favour of the Second Joint Amended and Restated Plan of Compromise and Reorganization of HII and Shareco and the Restated Plan of Compromise of Homco 61 (the “**Homco 61 Plan**”);
9. On June 5, HII and Shareco filed a Third Amended and Restated Plan of Compromise and Reorganization (the “**HII/Shareco Plan**” and together with the Homco 61 Plan, the “**Plans**”);
10. On June 5, 2013, this Honourable Court sanctioned the Plans, as appears from the Court record. Since then, the HII Group and the Monitor, in collaboration with other stakeholders, have made substantial progress towards implementation of the Plans;
11. The HII Group, the Monitor and their advisors have been working diligently in order to allow for the implementation of the transactions which will occur on Plan Implementation Date (as defined in the Plans) and diligently seeking all authorizations necessary therefor;
12. As detailed below, the HII Group, the Monitor and their respective advisors have continued their discussions with the mortgage lenders of the Core Business Assets (as defined in the Plans) to finalize all arrangements and consents required to implement the Plans and have been negotiating the terms of the closing documents with the relevant parties, the whole with a view to proceeding to implementation of the Plans in the briefest possible delays;
13. A request for the issuance by the Canada Revenue Agency (the “**CRA**”) of an advanced tax ruling relating to the implementation of the Plans was filed in mid-April 2013. The tax advisors of both the HII Group and the Monitor have been in continued communication with the CRA to obtain a response from the CRA to the tax ruling request, which response the tax advisor believe could be obtained during July 2013;
14. Dutch tax council to the HII Group is preparing documentation relating to an application for the issuance of a licence by the AFM in favour of the new entity Geneba Properties N.V. (“**Geneba**”), such issuance, barring unforeseen impediments, being expected by the end of August 2013;
15. The trading platform on which the Geneba shares to be issued pursuant to the HII/Shareco Plan will trade will be the Nederlandsche Participatie Exchange (“**NPEX**”). The designation of such platform was made by the HII Group in consultation with Stichting Homburg Bonds, Catalyst and the Monitor. The Monitor is presently working on issues relating to opening of accounts and the HII Group is working on a prospectus with the hope that such prospectus would be approved by NPEX by the end of August 2013;
16. Given the above, the HII Group and the Monitor have determined that implementation will likely only occur on or around the end of the month of August 2013. By newsletter to the bondholders and by press release, the HII Group advised its creditors of the

anticipated delay to plan implementation and the reasons therefor;

III. OPERATIONS AND RESTRUCTURING EFFORTS

17. Since the last extension of the Stay Period, the HII Group has continued to make significant progress, including advancing discussions with several mortgage lenders and has concluded agreements with certain of these lenders, the whole as more fully set forth below;
18. Highlights of the most significant activities of the HII Group are provided below. The HII Group refers the stakeholders and the Court to the Twenty-Fifth Report of the Monitor to be filed in support of the present motion (the “**Monitor’s Twenty-Fifth Report**”) for a complete description of these activities;

A. *Claims process and Amended motion for directions*

19. Pursuant to the Claims Process Order previously issued by the Court, the Monitor received more than 250 proofs of claim, representing approximately \$2.25 Billion;
20. The following developments have occurred with respect to the claims process:
 - (a) Motions in appeal have been filed jointly by the Stichting Homburg Bonds and Stichting Homburg Capital Securities on the one hand, and by Stichting Homburg Bonds alone on the other hand with respect to Notices of Review or Disallowance issued by the Monitor in relation to claims of certain fees and expenses. A hearing of such motions has been set for August 29, 2013;
 - (b) On June 7, 2013, Statoil filed a Discontinuance of a motion in appeal it had filed with respect to a Notice of Revision or Disallowance issued by the Monitor;
 - (c) On June 6 and 7, 2013, the Dutch trustee to the bankruptcy of Valbonne Real Estate B.V. (“**Valbonne**”) filed, on behalf of Valbonne acting for itself and as an assignee of Homco Realty Fund (68) Limited Partnership (“**Homco 68**”), motions in appeal of Notices of Disallowance or Revision issued with respect to claims made by Valbonne and Homco 68. No date as yet been set for a hearing of these motions;
 - (d) With respect to HII’s Amended Motion for Directions regarding the entitlement to distribution to the Taberna Noteholders pursuant to the HII Shareco Plan, the Court ruled on an objection raised during an out-of-court examination of a representative of HII, such that HII must submit certain documents by August 30, 2013. In the interim, the parties are discussing a timetable in order to allow these proceedings to progress towards a hearing on the merits.

B. *Negotiations with mortgage lenders and sale of North American properties*

21. Several meetings have taken place since the last extension hearing with the various mortgage lenders of the European properties to finalize the restructuring of the HII Group

loan portfolio. Significant developments are as follows:

- (a) Documentation of the renegotiated terms of the loan advanced by Falcon Private Bank Ltd. (“**Falcon**”) to Valbonne Real Estate 5 B.V. in respect of the Campeon property has been completed and executed by Falcon. One final approval by another party is pending and HII anticipates it will be received shortly;
 - (b) Documentation of the renegotiated terms of the loan advanced by Skandinaviska Enskilda Banken AB (publ) (“**SEB**”) to Homburg Baltic LP Inc. and certain of its affiliates in respect of properties located in Estonia, Latvia and Lithuania (the “**Baltic Portfolio**”) is being negotiated and finalized with SEB pursuant to a term sheet which has been executed by the HII Group and SEB. The HII Group is currently also negotiating and finalizing the entering into by SEB of three long term lease for properties situated in each of Estonia, Latvia and Lithuania which collectively represent over 74% of the aggregate rent value of the entire Baltic Portfolio. Additionally, a master lease agreement which sets forth the entering into of new lease agreements by SEB for certain properties comprising the Baltic Portfolio is also being negotiate;
 - (c) A term sheet was signed with HSH Nordbank AG on June 19, 2013 and final documentation is being prepared;
 - (d) Meetings with HBOS on July 11, 2013 regarding their consent to the transactions outlined in the Plan; and
 - (e) NIBC has provided its consent to the transactions outlined in the Plans.
22. HSBC Bank Canada (“**HSBC**”) is financing four properties in Canada: “Henderson Farms” (Homco 121), Kai Mortensen Towers (Homco 88), Cristal Towers (Homco 105), and Points North (NCLL). With respect to the latter three, sales processes are ongoing and any sale is subject to the approval of this Court. HSBC has been kept informed of the ongoing sale processes;
23. As regards Henderson Farms, the HII Group and the Monitor still remain of the view that there is no economic interest in this property for the HII Group and its stakeholders, other than HSBC. As previously disclosed to the Court, Homburg Canada Inc. has raised certain issues relating to the property and its guarantee of Homco 121’s debt to HSBC. Discussions as to the best course of action are ongoing and the Court will be kept apprised of any developments;
24. Highlights with respect to other properties located in North America are as follows:
- (a) The sales processes for Homburg Springs East (Homco 52) and Homburg Springs West (Homco 94) are ongoing;
 - (b) The sale of all remaining condominium units held by Homco 83 (save and except for the condominium unit to be transferred to Homburg Canada Incorporated on Plan Implementation Date pursuant to the Court approved Purchase Agreement

dated November 17, 2011), as authorized by this Honourable Court on April 26, 2013, have all closed;

- (c) Homburg Holdings (U.S.) Inc. has completed the sale of two properties located in Texas. There are 10 remaining properties for sale in the United States, half of which are already the subject of a purchase and sale agreement with a potential purchaser.
25. The process relating to sale of non-core properties in Canada and the United States, and any related issues, will not have any impact the Plan Implementation Date;

C. *Bankruptcies*

26. On June 14, 2013, Homco Realty Fund (102) Limited Partnership (“**Homco 102**”), which is not a filing party, filed a voluntary assignment in bankruptcy, along with its general partner, HII (102) GP Inc. (a subsidiary of HII). Homco 102 is insolvent and was unable to reach satisfactory arrangements with the mortgage lender, FGH Bank N.V. in connection with the refinancing of the property. The meeting of creditors of these entities took place on July 4, 2013, in Halifax;
27. On June 19, 2013, HII (71) GP Inc., HII (72) GP Inc. and HII (76) GP Inc. (all subsidiaries of HII) also filed voluntary assignments in bankruptcy. These entities were the general partners of Homco Realty Fund (71) Limited Partnership, Homco Realty Fund (72) Limited Partnership and Homco Realty Fund (76) Limited Partnership, each of which filed for bankruptcy on December 31, 2012. These limited partnerships were financed by ABN AMRO Bank N.V. and were unable to reach satisfactory arrangements in connection with the refinancing of the properties. The meeting of creditors took place on July 4, 2013, in Halifax;

IV. HOMCO 122

28. Homco 122 is a limited partnership governed by the laws of Nova Scotia. HII is its sole limited partner and HII (122) GP Inc., a subsidiary of HII, its general partner. Homco 122 formerly held condominium units in a project known as Lougheed Estates in Fort McMurray, Alberta;
29. As of the date hereof, Homco 122 is insolvent and no longer holds any real property. HII, in cooperation with the Monitor, has determined that it would be appropriate to proceed with a bankruptcy of these entities. Accordingly, HII is not seeking an extension of the stay of proceedings in respect of Homco 122, such that it may file a voluntary assignment in bankruptcy;

V. CONCLUSION

30. HII is of the view that providing the relief requested herein is appropriate in the present circumstances. Accordingly, HII respectfully requests that this Honourable Court render the orders contained in the conclusions herein;

31. As will appear from the Monitor's Twenty-Fifth Report, the Monitor supports the present Motion;
32. The HII Group has acted, and continues to act, in good faith and with the utmost diligence;
33. The present motion is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **GRANT** the present *Motion for extension of the stay period* (the "**Motion**");
2. **EXTEND** the Stay Period (as defined in the Initial Order rendered by the Court on September 9, 2011 and as extended from time to time) to and including August 31, 2013, save for and except with respect to Homco Realty Fund (122) Limited Partnership;

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

MONTRÉAL, June 8th, 2013

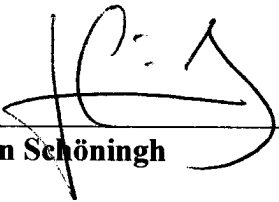

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Attorneys for the Debtors and Mises-en-cause

AFFIDAVIT

I the undersigned, Jan Schöningh, domiciled and residing at 597 Roslyn Avenue, Westmount, Québec, H3Y 2V1, solemnly declare the following:


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

AND I HAVE SIGNED:



Jan Schöningh

SOLEMNLY DECLARED BEFORE ME
IN MONTRÉAL, QUÉBEC ON THE
8TH DAY OF AUGUST 2013.



Commissioner of oaths for
the Province of Québec



NOTICE OF PRESENTATION

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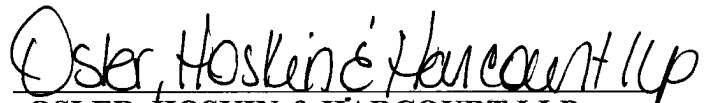
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Corp.**

TAKE NOTICE that the *Motion for extension of the stay period* will be presented for hearing and allowance in the Superior Court, commercial division, at the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, **on July 11th, 2013, at 9:15 a.m.**, or so soon thereafter as counsel may be heard, and **in room 15.04**.

PLEASE ACT ACCORDINGLY.

MONTRÉAL, June 8th, 2013


OSLER, HOSKIN & HARCOURT LLP
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