

EXTENDED STAY, INC., ET AL.
(Case No. 09-13764 (JMP) (Bankr. S.D.N.Y.)
PROPOSED PLAN TERM SHEET

This term sheet (the “Term Sheet”) generally and preliminarily outlines the principal terms and conditions of a chapter 11 plan (the “Plan”) to be proposed by the Official Committee of Unsecured Creditors (the “Committee”) and Starwood Capital Group Global, L.P., or one or more of its affiliates (collectively, the “Sponsor”). The terms discussed herein are an integrated compromise and are not divisible. Further, this Term Sheet is intended to reflect the general terms of a proposal and form the outline of an agreement. Therefore, no legally binding obligation on any party will be established unless and until definitive documentation is executed and delivered and all necessary approvals and consents are obtained. The Term Sheet is provided in confidence and may be distributed only with the express written consent of the Committee and the Sponsor. The Term Sheet is provided in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, the Term Sheet is intended to be entitled to the protections of Rule 408 of the Federal Rules of Evidence and any other applicable statutes or doctrines protecting the use or disclosure of confidential information and information exchanged in the context of settlement discussions. Nothing in the Term Sheet will be deemed an admission of fact or liability or deemed binding on the Committee or the Sponsor. Any capitalized terms not defined herein will have those meanings set forth in the Plan filed by the Debtors with the Bankruptcy Court on April 30, 2010.

General Plan Overview

Under the Plan, the Debtors will be reorganized and NewCo will be formed and owned (a) 75% by the Sponsors, (b) 5% by the holders of Allowed Mezzanine Facilities Claims, and (c) 20% by the Rights Offering Participants (with the Rights being offered to the holders of Allowed Mezzanine Facilities Claims). The Plan will be funded with (a) a \$560 million equity investment from the Sponsor, (b) a \$140 million Rights Offering (as discussed below) and (c) cash on hand.

Debtors Under the Plan

The Debtors under the Plan will include all of the debtors and debtors-in-possession in the Chapter 11 Cases other than Extended Stay, Inc.

**Classification and
Treatment of Claims**
Administrative Claims
(Unclassified)

Each holder of an Allowed Administrative Expense Claim will be paid in full in cash on the Effective Date or as otherwise agreed; *provided that* any Allowed Administrative Expense Claim, representing an actual or necessary expense of preserving

the Estate or operating the business of any Debtor for payment of goods, services, wages, or benefits or for credit extended to any Debtor, as a Debtor in Possession and reflected as a postpetition liability of any Debtor on such Debtor's books and records maintained in the ordinary course of business as of the Effective Date, including reimbursement of ordinary course expenses incurred by HVM and HVM Canada, will be assumed and paid by the Reorganized Debtors in accordance with the terms and conditions of the particular transactions and any agreements relating thereto.

Priority Tax Claims
(Unclassified)

Each holder of an Allowed Priority Tax Claim will be paid the Allowed Amount of its Allowed Priority Tax Claim either (a) in full, in Cash, on the latest of (i) the Effective Date, (ii) the date such Allowed Priority Tax Claim becomes Allowed, and (iii) the date such Allowed Priority Tax Claim is payable under applicable non-bankruptcy law or (b) upon such other terms as may be mutually agreed upon between each holder of a Priority Tax Claim and the Reorganized Debtors.

Priority Non-Tax Claims
(Class 1)
(Unimpaired)

Each holder of an Allowed Priority Claim will be paid in full in cash on the Effective Date or as otherwise agreed.

Mortgage Facility Claim
(Class 2)
(Unimpaired)

The Allowed Mortgage Facility Claim will be unimpaired and the Mortgage Facility reinstated in accordance with Section 1124 of the Bankruptcy Code on the Effective Date. The holder of the Allowed Mortgage Facility Claim will receive a cash payment in the amount shown on the attached schedule on the Effective Date to cure defaults under the Mortgage Facility.

ESA UD Mortgage Claim
(Class 3)
(Impaired)

The holder of the Allowed ESA UD Mortgage Claim will receive on the Effective Date the New ESA UD Mortgage Note in full settlement, satisfaction, release and discharge of the Allowed ESA UD Mortgage Claim. The New ESA UD Mortgage will be in the principal amount of five million dollars (\$5,000,000), bear interest at the rate of 5.0% per annum and be due and payable 5 years from the Effective Date.

Mezzanine Facilities Claims
(Class 4)
(Impaired)

Each holder of an Allowed Mezzanine Facilities Claim (i) will receive its share as of the Effective Date of (a) the rights to be issued in connection with the Rights Offering (as described

below) and (b) the Litigation Trust, and (ii) will receive through the Liquidation Trust described below its share as computed on distribution of (a) 5% of the NewCo Equity Interests and (b) the New Warrants.

The distribution to the holders of the Allowed Mezzanine Facilities Claims will be made by the Liquidation Trust in accordance with the Intercreditor Agreement.

Sponsor will participate in the Class 4 distribution in its capacity as a holder of an Allowed Mezzanine Facilities Claim.

General Unsecured Claims
(Class 5)
(Impaired)

Each holder of an Allowed General Unsecured Claim will receive its Pro Rata Share of the net proceeds of the Litigation Trust.

Equity Interests
(Class 6 and any additional
Classes necessary)
(Impaired)

Each of the Debtors' Equity Interests will, at the option of the Sponsor, (a) be cancelled and extinguished or (b) remain intact (to the extent consistent with substantive consolidation).

**General Plan
Implementation**

Substantive Consolidation

The Plan will be premised upon the substantive consolidation of the Debtors for all purposes related to this Plan, including, without limitation, for purposes of voting, confirmation and distribution (provided that it is consistent with the unimpairment of the Mortgage Debt).

Plan Funding

The Plan will be funded by (a) the Equity Investment (as discussed below), (b) the proceeds of the Rights Offering (as discussed below) and (b) the cash on hand at the Debtors on the Effective Date.

Equity Investment

On the Effective Date, the Sponsor will make a \$560 million equity investment in NewCo in exchange for 75% of the NewCo Equity Interests (the "New Money Investment").

Rights Offering	<p>A \$140 million rights offering for 20% of the NewCo Equity Interests as of the Effective Date will be offered to the holders of Allowed Mezzanine Facilities Claims (the “<u>Rights Offering</u>”). The Rights Offering will be backstopped by the Sponsors.</p>
Deposit	<p>The Sponsor will provide a good faith deposit in an amount to be agreed to with the Committee consistent with similar size transactions.</p>
Equity Ownership	<p>The Sponsor will own 75% of the NewCo Equity Interests in exchange for the New Money Investment.</p> <p>The participants in the Rights Offering will own 20% of the NewCo Equity Interests as of the Effective Date.</p> <p>5% of the NewCo Equity Interests as of the Effective Date (the “<u>Mezzanine Shares</u>”) will be issued to the Liquidation Trust described on Exhibit A, holding on behalf of the holders of Allowed Mezzanine Facilities Claims. Except as set forth below, there will be no anti-dilution protections for the Mezzanine Shares. Except as set forth below, there will be no anti-dilution protections for the Mezzanine Shares and the Mezzanine Shares will be subject to dilution from, inter alia, any new money investments in excess of \$700 million made on or after the Effective Date.</p> <p>New Warrants, as discussed below, will be issued to the Liquidation Trust on behalf of the Holders of Allowed Mezzanine Facilities Claims.</p> <p>The Mezzanine Shares, New Warrants and participants in the Rights Offering (other than the Sponsor) will have customary minority stockholder protections as set forth on Exhibit B.</p> <p>The Sponsor may, at its option, increase the amount of the New Money Investment and the Rights Offering in which case the above equity ownership percentages will be adjusted proportionately.</p>
New Warrants	<p>The Holders of Allowed Mezzanine Facilities Claims will receive new warrants (the “<u>New Warrants</u>”) exercisable for 20% of the fully diluted equity of NewCo at the time of exercise, after certain distributions, all as set forth on Exhibit C.</p>

Board of Directors

The Board of Directors will be comprised of five (5) members, with one (1) member initially appointed by the Official Committee and thereafter designated from time to time by the Liquidation Trust and, after distribution by the Liquidation Trust, by holders of the NewCo Equity Interests so distributed; *provided that* the Board of Directors will be controlled by the Sponsor.

Litigation Trust

A litigation trust will be established pursuant to the Plan and will be responsible for (a) the resolution of all disputed claims against the Debtors' estates and maintenance of disputed claim reserves for such claims; (b) the collection and distribution of any monies due to the beneficiaries of this Litigation Trust; (c) the prosecution of any avoidance actions and any potential claims, causes of action, charges, suits or rights of recovery, including without limitation breaches of fiduciary duty, aiding and abetting, illegal dividends, equitable subordination and those claims and causes of action referenced in the Examiner's Report or arising out of or related to the acquisition by DL-DW of the Debtors from BHAC IV, L.L.C. and BRE/HV Holdings L.L.C., *provided, however* that the Litigation Trust will not pursue, and its assets will not include, the (y) Windows Litigation or (z) any claims against (i) the Debtors, Reorganized Debtors or NewCo; (ii) any assets or entities being transferred to the Reorganized Debtors or any newly formed entity as required by the Sponsor; (iii) HVM, HVM Manager and HVM Manager Owner; or (iv) the BHAC IP (with respect to subsections (iii) and (iv), the exclusion of such claims shall be to the extent such claims are released pursuant to section 10.10 of the Debtors' Plan) (collectively, the "Litigation Trust Claims"). The Litigation Trust and/or Litigation Trustee will be prohibited from bringing any Litigation Trust Claims in the name or right of any of the entities listed in (z)(i)-(iii) above

The Litigation Trust will receive a loan in the amount of \$15 million from NewCo to fund the cost of administering the Litigation Trust and prosecuting the Litigation Trust Claims. The loan will bear annual interest at the rate of 5% and be payable solely from the net litigation recoveries. Such loan will be repaid in full, in cash before any distributions are made to the beneficiaries of the Litigation Trust. Such loan will be repaid in full, in cash, from the first net proceeds recovered by the

Litigation Trust.

BHAC IP

The BHAC IP will be transferred to the NewCo, the Reorganized Debtors or their designee pursuant to the terms of an intellectual property transfer agreement, in a form acceptable to the Sponsor.

HVM Management Agreement

On the Effective Date, David Lichtenstein will sell, transfer and assign to an entity to be designated by the Sponsor (the “Designee”) the membership interests in HVM Manager L.L.C. (the “Membership Interests”), free and clear of all claims, security interests, liens, pledges, options, rights of first refusal, agreements, limitations on stockholder's voting rights, charges and other encumbrances of any nature whatsoever (collectively, the “Encumbrances”; provided, however, that the Sponsor will have the right at the Sponsor’s election to be made in its sole and absolute discretion to require (a) Lichtenstein to sell, transfer and assign the Membership Interests to the Designee free and clear of any and all Encumbrances, or (b) in lieu of so selling, transferring and assigning the Membership Interests, Lichtenstein to cause HVM Manager L.L.C. (i) to resign as manager of HVM L.L.C., (ii) to appoint the Designee, or such other entity to be appointed at the discretion of the Sponsor, as the successor manager of HVM L.L.C. in accordance with the Plan, as the Plan may be amended from time to time, and (iii) to convey to such successor manager that has been appointed in accordance with clause (ii) above such assets of the HVM Manager L.L.C. as designated by the Sponsor.

In exchange for the foregoing, NewCo or the Reorganized Debtors will pay Lichtenstein \$40 million cash on the Effective Date from the plan funding sources.

ESI Settlement

A settlement agreement in a form acceptable to the Sponsor and the Committee will be entered into with ESI.

Management/Management Promote

On and after the Effective Date, NewCo or the Reorganized Debtors may implement a Management Incentive Plan, in form and substance acceptable to the Sponsor, which may provide for cash distributions to participants therein based upon a waterfall, to be determined by NewCo’s Board of Directors, in which management’s distributions may be senior to the returns of certain equity holders. The identity of recipients, the cash

distribution waterfall, the form of any such incentives and all other terms will be determined by NewCo's Board of Directors.

Existing Management Agreements

As of the Effective Date, all existing management agreements between any Debtor and HVM L.L.C., including any related administrative services agreements or G&A Reimbursement Agreements, will be assumed by such Debtor or assumed and assigned to an entity designated by the Sponsor; *provided that* such management agreements to be assumed or assumed and assigned (i) will be modified or amended by modified agreements that will be included in the Plan Supplement, which terms will be acceptable to the Sponsor and HVM L.L.C. and (ii) will be assumed or assumed and assigned as modified or amended.

Other Executory Contracts and Unexpired Leases

The Sponsor will identify all other executory contracts and unexpired leases to be assumed by the Reorganized Debtors or to be assumed and assigned to an entity to be designated by the Sponsor. All other executory contracts and unexpired leases will be rejected by the Debtors on the Effective Date. Such contracts and leases will be identified in the Plan Supplement.

Releases

The Plan will contain a general release and standard exculpation for activities during the Chapter 11 cases and in connection with the Plan, in forms acceptable to the Sponsor and *provided that* such release and exculpation will not be construed as a release for any Guaranty Claim other than a Guaranty Claim against Homestead and *provided further* that such release and exculpation will not be construed as a release for any potential claims, causes of action, charges, suits or rights of recovery referenced in the Examiner's Report arising out of or related to the Acquisition other than with respect to (a) the Debtors, the Reorganized Debtors or NewCo; (b) any assets or entities being transferred to the Reorganized Debtors or any newly formed entity as required by the Sponsor; (c) HVM, HVM Manager and HVM Manager Owner; or (d) the BHAC IP.

Plan Support

The Sponsors and the Committee agree to support this Plan to the exclusion of other plans.

Conditions to Effectiveness

The conditions to the Effective Date will include, but not be

limited to:

- (a) All payments to be made on the Plan's Effective Date will have been made or duly provided for.
- (b) The Plan will have been confirmed by a Final Order, that is in a form acceptable to the Sponsor.
- (c) The HVM Membership Agreement will have been entered into by the Sponsor, Lichtenstein and the other parties thereto, in a form acceptable to Sponsor.
- (d) The BHAC IP will have been transferred to NewCo, the Reorganized Debtors or such other entity designated by the Sponsor, on terms acceptable to Sponsor.
- (e) The Litigation Trust and Liquidation Trust will have been established and funded.
- (f) The Mortgage Loan will have been reinstated.
- (g) A settlement agreement will have been entered into with ESI, on terms acceptable to Sponsor.
- (h) The effective date occurs on or before November 15, 2010.

EXHIBIT A
LIQUIDATION TRUST

Trustee: As determined by the Official Committee of Unsecured Creditors

Term: Five years, subject to extension up to two years if necessary

Capital Calls: In the event of exercise of preemptive rights, the Trustee may offer the rights to participate to each holder of interests in the Liquidation Trust pro rata in accordance with the then value of their interests

Transferability of interests: Interests in the Liquidation Trust shall be transferable only with the consent of the Trustee

Initial Funding: The Liquidation Trust will be funded with an amount to be agreed upon out of a portion of the funds provided for the Litigation Trust

Distribution: The Trustee shall make distributions in cash or in kind in accordance with the waterfall set forth in the Intercreditor Agreement

EXHIBIT B
MINORITY STOCKHOLDER PROTECTION

Registration Rights:	Registration rights customary for securities of this type, including demand rights commencing after the earlier of the 4 th anniversary and an initial public offering (an “ <u>IPO</u> ”) and piggyback rights pro rata with Sponsor.
Preemptive Right:	In the event that NewCo issues additional equity securities other than in an IPO, the holders shall have a preemptive right to purchase the same pre-dilution percentage of such offering as such holder beneficially owns.
Allocation:	The Liquidation Trust shall determine the appropriate allocation of proceeds of the New Warrants and Mezzanine Shares in accordance with the Intercreditor Agreement
Affiliate transaction:	The New Warrants would survive a merger, sale or other reorganization of NewCo into another Person which is Affiliated with the Sponsor.
Financial Information:	Information rights customary for securities of this type.

EXHIBIT C
TERMS OF WARRANTS

- Security: New Warrants to purchase common shares of NewCo
- Amount: 20% of the fully diluted equity as set forth below
- Strike Price: The New Warrants shall have a strike price equivalent to the per share amount corresponding to 20% of the fully diluted equity assuming the Sponsor, participants in the Rights Offering and any holders of the Mezzanine Shares who participate in future capital calls (the “Investors”) have received distributions (which may include equity) equal to the sum of (i) a return of all capital invested on or after the Effective Date, including the New Money Investment, Rights Offering and any additional capital contributions made by the Sponsor, the participants in the Rights Offering or any holders of the Mezzanine Shares who participate in future capital calls from time to time; and (ii) a 20% internal rate of return on all such capital (collectively, the “Return”). For the avoidance of doubt, upon the receipt by the Investors of the Return, the New Warrants may be exercised by way of cashless exercise without any additional consideration for 20% of the fully-diluted equity of NewCo. The parties will negotiate in good faith provisions that address the occurrence of events such as change in control, sale of NewCo and public offerings, consistent with the principles articulated above.
- Transferability: The New Warrants may be transferred in conformity with applicable securities laws.
- Term: The New Warrants shall be exercisable at any time for a period commencing upon the Effective Date of the Plan and ending after the earlier of (a) 7 years after the Effective Date of the Plan, and (b) the occurrence of a liquidity event, the terms of which shall be negotiated in good faith by the parties.
- Cashless exercise: New Warrants may be exercised by surrender of New Warrants or other securities of NewCo.
- Anti-dilution Protection: Customary anti-dilution protection for securities of this type. In addition, the New Warrants will be protected from dilution on a percentage basis in the event of issuances of equity securities to third parties.
- Minority stockholder protections: As set forth on Exhibit B.